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EDITORIAL

"Create relevance, not awareness" is supposedly a quote from the late Steve Jobs. In today's multiplatform world, where success is measured by the number of clicks, information providers may actually be tempted to invert the dictum and privilege glitter over substance. This, dear reader, will never be the case for us. At the Observatory we are deeply committed to our mission of improving "the transfer of information within the audiovisual industry, to promote a clearer view of the market and a greater transparency." And for us, staying relevant means selecting the right topics, producing detailed reports on them, and using our legal newsletter as a useful update tool.

Consider the issue of AI, for example. Recognising the increasing significance of this revolutionary technological development, the Observatory has published two reports on AI in recent years (see here and here), and now you can read our articles about Munich's regional court ruling in favour of GEMA against OpenAI in a copyright infringement case involving the memorisation of song lyrics by AI; the UK High Court's ruling in the *Getty Images (US) Inc. and Others v. Stability AI Ltd* case; and the enactment of a new Italian AI law, which establishes a human authorship requirement for copyright protection and criminalises the dissemination of deepfakes.

Another example: many of our reports focus on the risks posed by online technologies for minors and the public at large. One such report is our AVMSDigest: Safe screens: protecting minors online. In the present newsletter you can also read about the recent decision of the Irish media regulator regarding terrorist content on WhatsApp and Pinterest, and the Dutch Media Authority's launch of a new hotline to enable children to report undisclosed advertisements on social media.

Also, if you enjoyed our latest report on the status of artists, you might also be interested in reading about a recent update about France's interprofessional agreement between film producers and author-screenwriters.

And since we are talking about the relevance of information providers, our dear readership will get an in-depth report on the news sector next month as a Christmas present.

Enjoy the read(s)!

Maja Cappello, Editor

European Audiovisual Observatory

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COUNCIL OF EUROPE

COE: COMMITTEE OF MINISTERS

The Council of Europe's Convention on the Co-Production of Audiovisual Works in the Form of Series is adopted

Eric Munch
European Audiovisual Observatory

On 26 November, the Committee of Ministers of the Council of Europe adopted the final text of the Convention on the Co-Production of Audiovisual Works in the Form of Series. Series have become a dominant format in the global offer of audiovisual works and are frequently made by partners from different countries. Building on the success of the framework for film coproduction established by the Council of Europe's Convention on Cinematographic Co-production, the new Convention introduces a distinct set of rules tailored for series, providing producers cooperating across borders with a framework adapted to multi-episode and multi-season production. The text is thus the first international legal framework specifically dedicated to the independent co-production of series for television and streaming platforms.

The Convention is meant to respond to the rapid growth of series as a dominant format offer, with a set of new co-production rules which previously only existed for cinema. Streamlined administrative procedures and clarified obligations aim to make it easier for independent producers from different countries to work together, reinforcing their role and enabling equitable participation in the ownership rights and revenues that sustain long-term viability.

By facilitating cross-border cooperation, reducing administrative barriers, creating clearer rules for rights and revenue sharing, and improving access to public support schemes, the Convention contributes to a more predictable and supportive environment for producing ambitious international series.

In addition to a focus on the independent production sector, the Convention acknowledges the essential role of public and private media service providers in creating and diffusing series. It provides guidelines for balanced interaction where series are initiated by independent producers.

In a document accompanying the publication of the Convention, the Council of Europe's Media Department explains that it will complement existing instruments such as Eurimages and the Pilot Programme for Series Co-Productions. While the

latter are financial instruments, the Convention will provide a legal one.

It will be opened for signature in early 2026 and enter a phase of signature and ratification by member States of the Council of Europe or states party to the European Cultural Convention. The Convention will enter into force once three States have ratified it.

The Eurimages Board of Management is entrusted with the follow-up on the Convention's implementation.

Council of Europe adopts Convention on the co-production of audiovisual works in the form of series

https://www.coe.int/en/web/portal/-/council-of-europe-adopts-convention-on-the-co-production-of-audiovisual-works-in-the-form-of-series

Convention on the Co-Production of Audiovisual Works in the Form of Series - Q&A for Media

https://rm.coe.int/q-a-for-media-en-convention-co-production-of-audiovisual-works-in-the-/4880297fee

Convention on the Co-Production of Audiovisual Works in the Form of Series

https://search.coe.int/cm?i=0912594880298095

EUROPEAN UNION

EU: EUROPEAN COMMISSION

European Commission preliminarily finds Meta and TikTok are failing to meet their transparency obligations

Paola Bellissens
European Audiovisual Observatory

On Friday 24 October, the European Commission took the preliminary view that the two social networking giants Meta and TikTok had failed to meet their transparency obligations under the Digital Services Act (DSA). Under this law, these platforms are obliged to guarantee researchers adequate access to their internal data. However, the European institution found that Meta and TikTok did not provide sufficient access to their data, preventing researchers from properly studying their platforms. Adequate access is important because it enables researchers to measure the potential impact of these platforms on our health, for example.

In addition, and according to the same law, platforms must allow any user to request the removal of illegal content through what are known as “notice and action mechanisms”. However, the Commission took the preliminary view that two Meta subsidiaries, Instagram and Facebook, have not implemented these mechanisms in a sufficiently appropriate manner. Consequently, the Commission considers that these platforms have not complied with their obligations.

These various conclusions issued by the Commission are the result of two formal investigation procedures. One was opened against Meta in April 2024, while another was opened against TikTok in February 2024.

These platforms now have the opportunity to examine the content of the investigation files and to respond in writing. They will then be able to take the necessary steps to rectify their situation. If the Commission’s opinion is upheld, the two undertakings could face fines of up to 6% of their worldwide turnover. However, at this stage, the Commission is still examining further potential breaches.

TikTok et Meta ne respectent pas leurs obligations de transparence au titre du règlement sur les services numériques, constatations préliminaires de la Commission

https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2503

Commission preliminarily finds TikTok and Meta in breach of their transparency obligations under the Digital Services Act

https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2503

EU: EUROPEAN PARLIAMENT

European Parliament resolution on the AVMSD obligations in the transatlantic dialogue

Amélie Lacourt
European Audiovisual Observatory

Three months after the EU concluded a trade agreement with the United States, on 23 October 2025, the European Parliament adopted a resolution calling for the rejection of any attempt to consider the Audiovisual Media Services Directive (AVMSD) to be a distortion of trade. This followed criticism of EU audiovisual legislation by the US administration, who labeled it as a trade barrier. Previously, President Donald Trump had also threatened to impose a 100% tariff on films produced outside the US.

In a memorandum published on 21 February 2025 and entitled "Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties", President Trump indeed emphasised that foreign legal regimes limit cross-border data flow and require American streaming services to fund local productions. In particular, the obligation for on-demand providers to feature at least 30% of EU-produced content in their catalogues has been repeatedly denounced. The United States Trade Representative further echoed this in the 2025 US National Trade Estimate Report, referring to the AVMSD as part of a foreign trade barrier.

In contrast, Members of the European Parliament defend the EU's AVMSD as "legitimate regulation in the public interest". Meeting in Strasbourg, they emphasised that Europe’s audiovisual industry rules must remain untouched. As the EU’s key instrument for creating a single market for audiovisual media services, the Directive aims to foster cultural diversity while ensuring fair conditions for all operators, including television broadcasters, on-demand platforms, and video-sharing services.

In its resolution, the Parliament therefore urges the European Commission to "reject any attempt to consider the AVMSD a distortion of trade, and to defend it as a legitimate regulatory instrument [...]". It further emphasises the importance of excluding audiovisual media services from trade negotiations in order to safeguard the EU and its Member States' ability to design and implement cultural and audiovisual policies that protect and promote cultural diversity. Parliament also stressed that the Directive "operates neutrally and without discrimination for both domestic and foreign providers, thereby ensuring fair competition and a level playing field".

These developments come as the Commission prepares for the evaluation and possible revision of the AVMSD in 2026.

European Parliament resolution of 23 October 2025 on Audiovisual Media Services Directive obligations in the transatlantic dialogue (2025/2776(RSP))

https://www.europarl.europa.eu/doceo/document/TA-10-2025-0256_EN.html

Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties

https://www.whitehouse.gov/presidential-actions/2025/02/defending-american-companies-and-innovators-from-overseas-extortion-and-unfair-fines-and-penalties/

2025 National Trade Estimate Report

https://ustr.gov/sites/default/files/files/Press/Reports/2025NTE.pdf

NATIONAL

GERMANY

[DE] Broadcasting Commission publishes key points for new state digital media treaty

Christina Meese
Institute of European Media Law

On 22 October 2025, the *Rundfunkkommission* (Broadcasting Commission) of the federal states adopted key points for a reform of the *Medienstaatsvertrag* (state media treaty – MStV), the aim of which is to safeguard the communication-related foundations of a free and democratic society in Germany. The new *Digitale Medien-Staatsvertrag* (digital media state treaty – DMStV) focuses on strengthening content providers and refinancing of journalistic offerings, guaranteeing free communication spaces, organising effective supervision, enabling economic growth and safeguarding diversity of opinion.

The reforms under the DMStV are divided into two parts. The first part, published in June, mainly concerns the implementation of EU law, in particular the European Media Freedom Act (IRIS 2025-8:19). The second part is intended to introduce substantive rules that promote media diversity and ensure freedom of expression and information, especially in the digital space. It divides the proposed package of measures into three blocks, in which no specific legal rules are proposed, but objectives and possible considerations are initially defined.

The first block, entitled “Strengthening content providers and refinancing of journalistic offerings”, is primarily concerned with establishing an economic level playing field for journalistic offerings. To this end, the federal states want to examine current advertising regulations, particularly with a view to liberalising and loosening advertising restrictions, and strengthen local and regional reporting. They also want to make media regulation fit for the AI age, with a particular focus on sharpening transparency and liability when AI offerings present themselves as media- and opinion-relevant services. Possible measures and instruments include mandatory source citations and links, as well as plausibility checks for AI responses based on reliable sources. The findability of journalistic content in the digital environment will also be further promoted, with existing public value criteria to be strengthened and new positive obligations introduced, along with anti-discrimination provisions for certain stakeholders. Finally, journalistic standards will also be raised (e.g. harmonisation of due diligence obligations of broadcasters and online media) and investments in the achievement of such standards will be rewarded through incentives (e.g. by benefiting from findability rules or bans on the restriction of such content vis-à-vis platforms).

The second block of measures, “Guaranteeing free communication spaces and organising effective supervision”, deals on the one hand with the protection of communication spaces from manipulative content and dissemination techniques, the implementation of bans on associations, including in the area of media regulation, and the protection of editorial independence, particularly with regard to the transparency of paid and editorial content. On the other hand, the federal states want to make supervision more efficient and effective. This could involve expanding powers in relation to certain content relevant to criminal law (in addition to the content relevant to criminal law that the media regulators can already prosecute), strengthening supervision to protect minors in the media and/or principles of leadership within Germany’s federal structures. This block also tackles the need to reduce bureaucracy and deregulation, especially by removing reporting obligations and expanding the digitalisation of supervisory activities.

The third block of measures is entitled “Enabling business growth and safeguarding diversity of opinion”. These measures include evaluating how future risks can be recognised and dealt with at an early stage, for example by expanding the monitoring tasks of various stakeholders. Another key point is the further development of media concentration law, which should also include platforms in particular.

The aforementioned measures are essentially enshrined in the MStV or *Jugendmedienschutzstaatsvertrag* (state treaty on the protection of minors in the media – JMStV), and therefore fall under the jurisdiction of the federal states. However, a number of possible measures are also mentioned that do not or do not solely fall within their jurisdiction because they would need to be addressed at federal or even EU level. These include, for example, the primacy of audiovisual media regulation under the Audiovisual Media Services Directive over platform regulation and problems linked to the country of origin principle, copyright in connection with the strengthening of journalistic content and AI, and competition law in connection with media cooperation and the power of platforms.

Beschluss der Rundfunkkommission

https://rundfunkkommission.rlp.de/fileadmin/rundfunkkommission/Dokumente/Beschluesse/2025_10_22_RFK_Beschluss_zu_Eckpunkten_DMStV_Teil_2.pdf

Decision of the Broadcasting Commission

https://rundfunkkommission.rlp.de/fileadmin/rundfunkkommission/Dokumente/Beschluesse/2025_10_22_RFK_Beschluss_zu_Eckpunkten_DMStV_Teil_2.pdf

Vorschläge und Optionen für ein Maßnahmenpaket zur Sicherung der kommunikativen Grundlagen einer freiheitlich-demokratischen Gesellschaft u.a. im Rahmen eines „Digitale Medien-Staatsvertrages (DMStV)“

https://rundfunkkommission.rlp.de/fileadmin/rundfunkkommission/Dokumente/Beschluesse/2025_10_22_Anlage_Eckpunkte_Gesamtmatrix_DMStV_Teil_2.pdf

Proposals and options for a package of measures to safeguard the communication-based foundations of a free and democratic society, including within the framework of a digital state media treaty (DMStV)

https://rundfunkkommission.rlp.de/fileadmin/rundfunkkommission/Dokumente/Beschluesse/2025_10_22_Anlage_Eckpunkte_Gesamtmatrix_DMStV_Teil_2.pdf

[DE] Broadcasting fee only considered unconstitutional in case of gross failure to ensure programme diversity

Christina Meese
Institute of European Media Law

In its ruling of 15 October 2025, the *Bundesverwaltungsgericht* (Federal Administrative Court – BVerwG) once again had to rule on a case concerning the payment of the broadcasting fee that is used to finance public broadcasters in Germany. It concluded that the levying of the fee is only incompatible with the *Grundgesetz* (Basic Law) if the overall programme offering of the public broadcasters grossly fails to meet the requirements for diverse and balanced content and opinion over a prolonged period of time. However, since it is the task of the lower courts to examine this, the action was referred back to them.

The obligation to pay the broadcasting fee, which currently costs €18.36 per month in Germany, is no longer linked to possession of a receiving device, but simply applies to all households. The relevant rules can be found in the *Rundfunkbeitragsstaatsvertrag* (state broadcasting fee treaty – RBStV). This treaty links the obligation to pay solely to possession of a home in Germany and not, for example, to whether public broadcasting services are actually used or wanted by the home owner. Nevertheless, the plaintiff in this particular case challenged this obligation, arguing that public service broadcasters in Germany do not offer a diverse and balanced programme, but rather "serve as an instrument of the prevailing state power over public opinion". She argued that there was no constitutional necessity for such a programme and that she was therefore entitled to refuse to pay the fee. However, her action had been rejected by the courts. In the most recent decision, the *Bayerische Verwaltungsgerichtshof* (Bavarian Administrative Court) had ruled that the levying of the fee was justified solely by opportunity it gave citizens to access public service broadcasting. With this in mind, the court saw no reason to examine whether there were structural deficiencies in the fulfilment of the public service mandate. Such deficiencies could only be asserted through a programme complaint, but would have no influence on the obligation to pay the broadcasting fee.

However, the BVerwG took a different view. Referring to the case law of the *Bundesverfassungsgericht* (Federal Constitutional Court), it stated that the obligation to pay only applied if the programme met the requirements of the public broadcasting mandate. This mandate consisted of ensuring diversity and offering guidance as a counterbalance to private broadcasting.

However, this did not mean that individual fee-payers could refuse to pay on account of programming deficiencies in individual cases. Neither the RBStV nor the *Medienstaatsvertrag* (state media treaty) provided for such a link between the obligation to pay the fee and the fulfilment of the public broadcasting mandate. Rather, the legislator had changed the previous broadcasting fee to a household-linked contribution precisely in order to prevent collection and enforcement problems associated with exemptions under the previous system.

However, according to the BVerwG, the constitutionality of the broadcasting fee and the obligation to pay it (i.e. the RBStV) could, in principle, be called into question if the overall programme offering of the public broadcasters "grossly failed" to meet the requirements for diverse and balanced content and opinion over an extended period. Nevertheless, the court noted that the threshold for this was very high and that both the broad discretion afforded to the legislator in designing the fee and the broadcasters' freedom of programming must be taken into account. In addition, it was difficult to determine whether the required representation of diverse opinions and their balanced presentation in the overall programme offer were actually achieved because programme diversity and balance were target values that could only ever be approximated. The BVerwG therefore ruled that the fee could only be unconstitutional if the overall programme offering of all public broadcasters, including radio, television and telemedia, showed clear and regular deficiencies in terms of diversity of content and opinion over an extended period of time.

Whether such deficiencies exist must now be examined by the Bavarian Administrative Court, to which the case was referred back. However, the BVerwG did not provide any indications that this was the case. If the Administrative Court concludes otherwise, a review procedure will need to be initiated at the Federal Constitutional Court in accordance with Article 100 of the Basic Law in order to finally assess the constitutionality of the broadcasting fee.

Pressemitteilung des BVerwG Nr. 80/2025

https://www.bverwg.de/pm/2025/80

Federal Administrative Court press release no. 80/2025

https://www.bverwg.de/pm/2025/80

[DE] Munich Regional Court upholds GEMA's claim against OpenAI for unauthorised reproduction of song lyrics

Christina Meese
Institute of European Media Law

In its judgement of 11 November 2025 (case no. 42 O 14139/24), the *Landgericht München I* (Munich Regional Court I – LG) ruled that the memorisation of linguistic works in AI language models, both when they were processed in the model and when they were delivered to the user in response to a corresponding prompt, constituted an act of reproduction within the meaning of copyright law. Although reproduction during the creation of training data material fell under the limitation of text and data mining, this did not apply to the process of training the model itself. As a consequence, the Munich Regional Court upheld a complaint filed by the GEMA collecting society concerning the processing of lyrics of its affiliated artists by ChatGPT. OpenAI, as the provider of ChatGPT, was accordingly ordered to refrain from these actions, to pay damages and to provide information about the scope of its use of the works and of the revenue generated from them.

GEMA had become aware, through its own sampling of ChatGPT (model 4 and user-defined agents based on model 4o), that the language model offered by OpenAI was able, when prompted, to reproduce song lyrics by GEMA artists, sometimes exactly and sometimes in a slightly modified form. These song lyrics were not freely available on the Internet, or at least not with the consent of the rightsholders. In addition, GEMA had generally claimed reservations of use as a limitation for text and data mining under Article 44b of the German *Urheberrechtsgesetz* (Copyright Act – UrhG), which transposed Article 4 of DSM Directive (EU) 2019/790 into German law. The collecting society had then brought an action before the Munich Regional Court I in relation to nine specific song lyrics retrieved from ChatGPT, including recent German hits such as "*Atemlos*" by Kristina Bach, older classics such as "*Über den Wolken*" by Reinhard Mey and songs written for special occasions such as "*In der Weihnachtsbäckerei*" and "*Wie schön, dass du geboren bist*" by Rolf Zuckowski. The court essentially upheld the claim.

According to the court, the memorisation (i.e. significant reproduction of training data) of linguistic works used by OpenAI constituted reproduction within the meaning of Article 16 UrhG (which transposed Article 2 of InfoSoc Directive 2001/29/EC). The lyrics were (1.) physically fixed in the models because the lyrics that had served as training data were reproducibly contained in the model and thus embodied. In particular, the comparison between the original work and the output of a simple prompt (e.g. "reproduce the chorus of the song '*Atemlos*'") submitted by GEMA was sufficient to convince the court that the work at issue had been memorised – even without knowledge of the specific training data used to develop ChatGPT. In addition, (2.) the linguistic works could be made indirectly perceptible via corresponding user interfaces. The court did not accept OpenAI's objection that ChatGPT essentially only strung together the most likely words and

that responses to prompts were therefore not always identical.

Furthermore, the reproduction that took place in the models was not covered by the text and data mining limitation. Although such language models would, in principle, fall within the scope of the limitation, this only applied to the "pre-training phase" during which the data corpus was compiled for training, i.e. crawled data was converted into machine-readable text. However, it did not cover the subsequent training phase, in which information was extracted from the data corpus and works were reproduced, since this was not done in preparation for text and data mining. With regard to the interpretation of Article 4 of the DSM Directive, the court stated in particular that: "A presumably technology- and innovation-friendly interpretation that also considers reproductions in the model to be covered by the limitation is prohibited in view of the clear wording" (para. 208).

The court also considered further limitations irrelevant. In particular, implied consent on the part of rightsholders could not be taken into account because the training of language models could not be considered a common and expected type of use that rightsholders should anticipate.

Finally, the court held that the operators of the language model were also liable for copyright infringements committed by outputs because they had control over the process. It was true that such control could be lost to the user if outputs were "provoked" by the user. However, this was not the case with simple prompts, as was the case here.

OpenAI was therefore ordered to refrain from reproducing the nine song lyrics at issue, both in the model and in outputs. In the event of non-compliance, a fine of up to €250 000 or, alternatively, imprisonment could be imposed in each case. In addition, OpenAI was ordered to provide information on the extent to which the reproductions in dispute had been made and how much revenue had been generated from them. OpenAI was also obliged to compensate GEMA for the damage it had already suffered and would suffer in future as a result of the copyright infringements. The only element of the complaint that was dismissed was the infringement of general personality rights also alleged by GEMA in connection with the incorrect attribution of modified song lyrics to authors.

The Munich Regional Court I did not consider it necessary to refer the case to the European Court of Justice (ECJ). The case law on the ECJ's broad interpretation of acts of reproduction left no doubt as to its application to language models. The text and data mining limitation was so clearly inapplicable that a referral on this basis was also unnecessary. In addition, the court referred to the pending case C-250/25 from Hungary, in which the ECJ would clarify these questions of interpretation.

Although the decision only relates to the nine song lyrics at issue, it sends out a strong signal. However, this first-instance judgement is not yet final and it is very likely that OpenAI will appeal. At the same time, GEMA has a case pending against

Suno before the same court chamber concerning compositions. It has already made it clear that it wants to claim licence fees for both training and reproduction of outputs, as well as for the use of outputs by users, for example by making them available to the public.

Urteil des LG München I – 42 O 14139/24

https://www.gesetze-bayern.de/Content/Document/Y-300-Z-GRURRS-B-2025-N-30204?hl=true

Judgement of Munich Regional Court I - 42 O 14139/24

https://www.gesetze-bayern.de/Content/Document/Y-300-Z-GRURRS-B-2025-N-30204?hl=true

[DE] New funding instrument for cinemas showing German, European and artistic/creative films

Christina Meese
Institute of European Media Law

A new funding instrument was launched in Germany in October 2025. The "*Liebling Kino*" programme will award financial incentives to cinemas that give special prominence to German, European and artistically ambitious films as part of a high-quality programme. Although the funding is only meant to pay for cinema operations, a points system should ultimately benefit the entire funding chain, from production to distribution, by creating appropriate incentives. Applications should be possible from November 2025.

The new grants will be awarded by the Federal Government Commissioner for Culture and Media (BKM) through the *Filmförderungsanstalt* (Federal Film Board – FFA) and will be based on cinemas' film programmes from the previous year. The recipients will be selected using an automated process in accordance with a points system that takes into account audience figures for German, European and artistic/creative films as well as special cultural achievements. Funds will be granted on application to cinemas with at least 2,500 points, which are awarded according to three criteria: "audience success", "screen factor" and "special cultural programme work".

A cinema's "audience success" in relation to German and European films corresponds to the number of admissions for these films in the previous year, while this number is doubled for artistic/creative films. German and European films are full-length films produced mainly by one or more producers resident or based in one or more countries participating in Creative Europe's MEDIA programme and with significant participation of professionals from these countries. Artistic/creative films are full-length films that have already received funding within the framework of jury-based cultural film funding programmes, received talent film funding from the *Kuratorium junger deutscher Film* (Young German Film Board) or achieved success at certain festivals or award ceremonies. In order to include small cinemas, the "screen factor" gives cinemas with no more than two screens a 20% bonus on their audience success score. Under the "programme work" criterion, additional points can be earned if a cinema fulfils at least two criteria, including the organisation of school cinema events, repertoire screenings, documentary and short film series or events on socially relevant topics.

Pressemitteilung BKM

https://www.bundesregierung.de/breg-de/aktuelles/staatsminister-weimer-startet-liebling-kino-7-millionen-euro-fuer-die-magie-der-leinwand-2387990?utm_source=chatgpt.com

Press release of the Federal Government Commissioner for Culture and Media

https://www.bundesregierung.de/breg-de/aktuelles/staatsminister-weimer-startet-liebling-kino-7-millionen-euro-fuer-die-magie-der-leinwand-2387990?utm_source=chatgpt.com

Teilnahmebedingungen Liebling Kino

https://www.ffa.de/kinoprogrammpraemie-des-bundes.html

Conditions of participation, Liebling Kino

https://www.ffa.de/kinoprogrammpraemie-des-bundes.html

DENMARK

[DK] Report on copyright and AI

Terese Foged
Legal expert

On 15 September 2025, the Danish Ministry of Culture published a report from the Expert Group on Copyright and Artificial Intelligence (AI). The report contains several recommendations aimed at addressing the challenges posed by AI in relation to copyright.

The report includes recommendations to improve transparency and control over training data, to strengthen the framework of conditions for collective licensing, and introduce technical measures to prevent the illegal use of copyright-protected content. In addition, it proposes an investigation into measures to promote the use of human-generated content, alongside guidance and awareness initiatives to promote clarity and legal certainty in the use of AI systems.

The Expert Group consisted of representatives from the Joint Council on Copyright (*Samrådet for Ophavsret*), the Danish Rights Alliance, the Danish Chamber of Commerce, Danish Industry, the Association of Danish Media (*Danske Medier*), the Royal Danish Library and technical and legal experts.

The report was long awaited by many in the creative sector, since under the terms of reference it was originally due to be submitted to the Minister of Culture in the winter of 2024/2025.

The report marks an important step in Denmark’s handling of AI in relation to copyright.

The report includes the following 10 recommendations:

1. "Effective transparency in training data

2. Effective opt-out mechanisms or revised rules for text and data mining

3. Strengthening the framework for collective licensing

4. Pilot scheme for mandatory arbitration in press publication rights disputes

5. Protection against digital imitations of individuals’ personal characteristics

6. Requirement of technical measures to prevent illegal uploading and copying of copyright-protected content on AI services

7. Conditional public prosecution in copyright and AI cases that are technically and territorially complex

8. Exploring possible measures to promote the use of human-generated content

9. Guidance and awareness initiatives on copyright and AI

10. Clarification in copyright law that the provision of AI systems constitutes communication to the public"

Regarding recommendations Nos. 1 and 2 on training data and opt-out mechanisms (rights reservations) and the rules for text and data mining, these matters are governed by Article 53(1)(c) and (d) and Recitals 105-107 of the AI Regulation.

Article 53(1)(d) requires providers to prepare and publish a sufficiently detailed summary of the content used to train the model, following a template provided by the AI Office. Article 53(1)(c) requires that providers implement a policy to comply with EU copyright law, in particular regarding identification of and compliance with rights holders' opt-outs under Article 4 of the DSM Directive. Articles 3-4 of the DSM Directive on text and data mining are implemented in sections 11b-c of the Danish Copyright Act (*ophavsretsloven*).

The AI Code adds further stipulations on training data and opt-outs.

Regarding recommendation No. 5 on digital imitations of individuals' personal characteristics, a bill on this subject has already been submitted for public consultation by the Ministry of Culture, with a consultation deadline of 21 August 2025. The Ministry stated that the bill is expected to be enacted on 31 March 2026. The bill is included in the Danish Government's legislative programme for the 2025-2026 parliamentary year (which began in October) but has not yet been presented to Parliament.

Regarding recommendation No. 6 on users' illegal uploads to AI services, according to the AI Code, providers must implement technical security measures to ensure that the model does not reproduce training content in its output in a way that would constitute copyright infringement. Furthermore, the AI Code requires providers to prohibit copyright-infringement in their terms of use.

Rapport for ophavsret og kunstig intelligens

https://kum.dk/kulturomraader/ophavsret/ekspertgruppe-for-ophavsret-og-kunstig-intelligens

September 2025 report from the Expert Group on Copyright and Artificial Intelligence

SPAIN

[ES] Spain’s Audiovisual Sector in 2025: Key Findings from the Third Annual Audiovisual Hub Report

Helena Suárez
ECIJA

The third annual report from the Spain Audiovisual Hub, published in October 2025, provides a comprehensive overview of the legal frameworks shaping Spain’s audiovisual industry. The Spain Audiovisual Hub is a strategic initiative launched by the Spanish Government in 2021 as part of the national Recovery, Transformation and Resilience Plan. Its objective is to position Spain as a leading European centre for audiovisual production, distribution and innovation.

As part of its mandate, the Hub publishes an annual report to track the sector’s evolution, assess the impact of public policies and provide strategic guidance to industry stakeholders. The 2025 edition is the third in this series, following reports released in 2023 and 2024. As the sector continues to grow and attract international investment, legal developments are playing a central role in ensuring regulatory compliance, promoting sustainability and supporting innovation. The key legal areas addressed in the report are: investment obligations, public funding criteria, sustainability and gender equality requirements, intellectual property management and the regulation of Over-the-top (OTT) platforms.

Investment obligations

The reform introduced by the General Law on Audiovisual Communication has led to a measurable rise in investment obligations for audiovisual service providers, including both traditional broadcasters and on-demand platforms. This legal requirement to allocate a percentage of annual revenues to the financing of European works has significantly increased investment in Spanish productions, particularly in fiction and animation, reinforcing the financial commitment to cultural diversity and strengthening the domestic production ecosystem. The clarity and enforceability of this requirement make Spain a reliable jurisdiction for international co-productions.

The report also describes efforts to improve legal certainty for foreign investors. These include streamlined administrative procedures, enhanced access to funding and reinforced guarantees for intellectual property rights. These measures are part of a broader strategy to position Spain as a competitive and secure destination for audiovisual investment.

Public funding criteria

Public funding for audiovisual content in Spain is governed by legal conditions established by the Institute of Cinematography and Audiovisual Arts (ICAA). The

report outlines how eligibility for grants and subsidies increasingly depends on compliance with sustainability, diversity and territorial impact requirements. Producers must demonstrate adherence to environmental protocols and gender equality standards to qualify for support.

This trend reflects a broader European movement towards conditional public financing.

Sustainability and gender equality requirements

The report emphasises the integration of sustainability into legal and contractual frameworks. Spain has embedded sustainability requirements into funding criteria and production contracts. Environmental impact is increasingly measured and considered in funding decisions and contractual obligations.

Gender equality is also addressed through legal mechanisms. Funding agreements and co-production contracts increasingly include clauses requiring minimum thresholds for female participation in creative and leadership roles. Legal professionals are responsible for drafting and enforcing these provisions in accordance with national and EU standards.

Intellectual property management

Spain’s growing role in international co-productions has increased the importance of intellectual property (IP) management. The report underscores the need for clear legal frameworks governing rights ownership, licensing and revenue sharing across jurisdictions. Spanish law provides a strong foundation for IP protection, but complex projects require careful legal structuring.

The report also notes the relevance of moral rights, particularly in animation and fiction. Creators seek to maintain control over character integrity and narrative development, especially in projects involving AI-generated content or cross-format adaptations.

Spain’s participation in bilateral agreements and EU initiatives supports the legal circulation of works and the harmonisation of IP standards.

Regulation of OTT platforms

The expansion of OTT platforms in Spain has introduced new legal challenges. The report identifies key areas of concern, including content quotas, protection of minors, advertising transparency and algorithmic accountability. Spain’s legal framework, aligned with the EU’s Digital Services Act (DSA), imposes obligations on platforms to ensure responsible content dissemination and user protection.

The report also suggests that Spain may consider further legal reforms to address emerging issues such as deepfakes, AI-generated content and data privacy.

Conclusion

The 2025 Spain Audiovisual Hub report highlights the central role of legal frameworks in shaping the audiovisual sector’s development. From investment

obligations and public funding criteria to sustainability, gender equality, IP management and platform regulation, legal structures are essential to the sector's continued growth and internationalisation.

Informe anual del sector audiovisual en España 2025

https://spainaudiovisualhub.digital.gob.es/content/dam/seteleco-hub-audiovisual/resources/pdf/informe_2025/2025_3er_Informe_Sector_Audiovisual_Espana_Spain_Audiovisual_Hub.pdf

Annual report on the audiovisual sector in Spain 2025

[ES] The CNMC sanctions NBC Universal Global Networks Spain for exceeding the time limit for commercial communications set by the Spanish General Law on Audiovisual Communication

Azahara Cañedo & Marta Rodriguez Castro

The National Commission on Markets and Competition (CNMC), the body that acts in Spain as the audiovisual authority and, therefore, oversees compliance with Law No. 13/2022 of 7 July 2022, the General Law on Audiovisual Communication (LGCA), has imposed two fines on NBC Universal Global Networks España S.L.U. (NBCU), amounting to a total of €4 516. The reason for those sanctions was the broadcasting of audiovisual commercial communications that exceeded the time limits set out in Article 137.1 (a) and (b) of the LGCA.

The sanctioning procedure began following a request submitted on 20 November 2023 by the *Agencija za komunikacijska omrežja in Storitve Republike Slovenije* (the audiovisual regulator of Slovenia - AKOS), regarding the broadcasts of DIVA - a channel operated by NBCU - on 13 and 14 October 2023. Since the service provider is established in Spain, Spanish jurisdiction applies in this case the LGCA and the CNMC is the body responsible for conducting the sanctioning procedure.

According to the established facts in the CNMC resolution, on 13 October 2023, DIVA exceeded the permitted time for audiovisual commercial communications by 3 minutes and 28 seconds during the 6 p.m.-midnight time slot while, on 14 October 2023, it exceeded the limit by 3 minutes and 2 seconds in the 6 a.m. - 6 p.m. time slot.

NBC Universal Global Networks Spain stated that the excess broadcast time of audiovisual commercial communications was due to a technical failure in the main broadcasting server “United Media Networks AG”, which affected the DIVA channel’s transmission and caused delays in the advertising blocks. Moreover, this technical issue also led to a desynchronisation between audio and video in many of the commercials; while the video displayed the advertisement, the audio corresponded to a film.

When determining the financial penalty for this serious infringement, the CNMC took into account - as mitigating factors - the fact that the technical failure led to low viewing figures and did not result in any competitive advantage for the provider. It also considered that the overrun of the advertising limit was minimal (only a few minutes) and that corrective measures had been implemented to prevent similar future infringements.

Resolución del procedimiento sancionador incoado a NBC Universal Global Networks España, S.L.U., por el incumplimiento de lo dispuesto en el artículo 137.1 de la Ley 13/2022

https://www.cnmc.es/sites/default/files/6162781.pdf

Resolution of the sanctioning procedure initiated against NBC Universal Global Networks España, S.L.U., for non-compliance with the provisions of Article 137.1 of Law 13/2022

https://www.cnmc.es/sites/default/files/6162781.pdf

FRANCE

[FR] Confirmation of Arcom's formal notice to Europe 1 for univocal and critical coverage of election news, without sufficient pluralistic expression

Amélie Blocman
Légipresse

Europe 1 is seeking annulment on the grounds of ultra vires of Decision No. 2024-582 of 27 June 2024 by which the *Autorité de Régulation de la Communication Audiovisuelle et Numérique* (Arcom) gave it formal notice to comply, in future, with the provisions of 4° of I.1 of Article 2 of the decision of 4 January 2011 on the principle of political pluralism in radio and television services during election periods, which states: "Reports, commentaries and presentations to which elections give rise must be presented with a constant concern for moderation and honesty. Publishers must also ensure that the choice of extracts from the statements and writings of candidates and their supporters, and the comments to which they may give rise, do not distort the general meaning."

In this case, Arcom based its decision on the fact that the current affairs programme *On marche sur la tête*, which was broadcast daily on weekdays between 4 p.m. and 6 p.m., was characterised between 17 and 26 June 2024 by a one-sided treatment of election news and the broadcasting of comments likely to infringe these provisions. In addition to the echo given to these comments by the conditions in which they were broadcast, including the use of the host's and publisher's social network accounts, Arcom also based its decision on the brevity of the campaign for the legislative elections called following the dissolution of the National Assembly on 9 June 2024 and the particular vigilance it required of publishers.

The *Conseil d'État* noted that the programme that gave rise to the disputed formal notice was, as Arcom pointed out, scheduled on the applicant company's service from 17 June 2024 as a replacement for an entertainment programme and in the context of the campaign for the legislative elections of 30 June and 7 July 2024. Characterised by the strong presence on air of a star presenter and columnists already known for their participation in a television programme, the programme was devoted to news coverage of the elections. During the period in respect of which it was the subject of the disputed formal notice, it gave rise to a large number of systematically critical and particularly virulent comments against certain parties of the same political persuasion and to the calling into question of certain of their members, in sharp terms and by name. Although the applicant company disputed the scope of the comments made by Arcom, arguing that they had been contradicted in some way on the air, it was not clear from the evidence in the file that Arcom's assessment, based on numerous, convergent and precisely set out points, as to whether the publisher had complied with its obligation to treat election-related news with a constant concern for moderation

and honesty, was erroneous.

In view of the recurrent nature of the comments made on air and all the characteristics of the treatment of election-related news in the context of the programme in question, the *Conseil d'État* ruled that Arcom, which had carried out a full examination of the case, had correctly applied the provisions it was responsible for ensuring compliance with, independently of the rules applicable to speaking time in terms of political pluralism, by giving formal notice to the service provider to present, with a constant concern for moderation and honesty, the reports, comments and presentations to which the elections gave rise. Europe 1's request was rejected.

CE, 30 septembre 2025, n° 497187, Société Europe 1

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-09-30/497187

CE, 30 September 2025, No. 497187, Société Europe 1

[FR] First interprofessional agreement between film producers and authors-screenwriters: a major step forward for remuneration and recognition of the role of authors

Amélie Blocman
Légipresse

An interprofessional agreement on contractual practices between "auteurs-scénaristes" (authors-screenwriters) and producers of feature-length fiction films, extended by order of the Minister of Culture to the entire profession, was signed on 15 October at the CNC (*Centre National du cinéma et de l'image animée*) by all the organisations representing film producers (*Association des producteurs indépendants* – API, *Syndicat des producteurs indépendants* – SPI and *Union des producteurs de cinéma* – UPC) and, for authors, by *Scénaristes de cinéma associés* (SCA), S*ociété des réalisatrices et réalisateurs de films* (SRF), *Société des auteurs et compositeurs dramatiques* (SACD) and *Société civile des auteurs, réalisateurs et producteurs* (ARP).

This agreement is made pursuant to Articles L. 132-25-1 and L. 132-25-2 of the French Intellectual Property Code, created by Order No. 2021-580 of 12 May 2021 resulting from the transposition of Directive (EU) 2019/790, which provides for a negotiation mechanism between authors and producers, intended to lead to interprofessional agreements in the film and audiovisual field. The aim is to achieve greater recognition of the role of authors in the creative process and a fairer sharing of risk and value.

Four agreements have already been signed in the audiovisual sector, covering documentary, fiction and animation scriptwriters, as well as fiction directors, and discussions are underway for documentary directors. This new agreement is therefore the first to cover the film industry.

It contains two main sets of measures, relating to recognition of the role of authors-screenwriters and their remuneration.

With regard to the recognition of the role of authors-screenwriters in the creative process, it provides in particular for the names of authors-screenwriters who have participated in at least three stages of the writing process to be mentioned in the opening credits of the film, where the names of the director and producer appear. In addition, the author-screenwriters will also have to be mentioned in communication tools such as the film poster and the press kit, in which they will have to be given significant prominence.

The agreement introduces three mechanisms, the combination of which will significantly improve the remuneration of authors-screenwriters, particularly the youngest and most vulnerable: minimum remuneration whether or not the film is made; indexation of remuneration according to external funding obtained by the producer; systematic additional remuneration according to the exploitation of the

film once it has paid for itself.

The minimum indexation provided for will make it possible to adapt the level of the guaranteed minimum, negotiated between the producer and the authors-screenwriter, to the economics of the film, since this indexation will be calculated on the basis of external financing obtained by the producer. The indexation will take effect from the time the investment is approved, i.e. well before the work is exploited: once again, it will guarantee the author earlier remuneration.

In addition, the agreement systematises this indexation, which will be negotiated by mutual agreement, for films with a budget in excess of EUR 6 million: once again, this is a real step forward compared with current practice.

The content of the agreement also makes it possible to set up an observatory to monitor changes in authors' remuneration. Finally, the agreement specifies that "the Parties undertake to open a constructive and regular dialogue between authors and producers on the conditions for using AI in the writing and development of a work project, in order to better understand the issues related to these tools and to put in place virtuous practices, in a spirit of transparency and respect for the interests of each party".

Arrêté du 16 octobre 2025 portant extension de l'accord interprofessionnel sur les pratiques contractuelles entre auteurs-scénaristes et producteurs d'œuvres cinématographiques de long-métrage de fiction du 15 octobre 2025, JO du 21 octobre 2025

https://www.legifrance.gouv.fr/download/pdf?id=B1WkYqe2WwfdkIwVf1uVp8UgGJ40ukIDzEYCw2TECmE=

Decree of 16 October 2025 extending the interprofessional agreement on contractual practices between author-screenwriters and producers of feature-length fiction cinematographic works of 15 October 2025, OJ of 21 October 2025

[FR] Proposals for promoting France’s audiovisual heritage

Amélie Blocman
Légipresse

The *Centre national du cinéma et de l'image animée* (National Centre for Cinema and the Moving Image – CNC) entrusted Michel Gomez, former general delegate of the Mission Cinéma of the City of Paris, with the task of evaluating the conditions for the conservation, exploitation and promotion of France’s audiovisual heritage. His report reveals a paradox: an abundant audiovisual offering but relatively limited public access to works over 20 years old. The main obstacles identified are economic (narrow marketplace), technical (obsolete media, costly digitisation) and legal (non-renewed copyright contracts, orphan works, liquidation of undertakings leading to loss of rights and material) in nature. The author recommends a structured heritage policy: extending the CNC’s remit to include audiovisual heritage, an interoperable database, a high-priority digitisation plan (for works dating from 1980 to 2005), conservation standards and measures to promote the dissemination of audiovisual heritage, particularly as part of the obligations of on-demand audiovisual media services. On the legal front, he specifically suggests that the framework should be simplified and made more secure via rights renewal procedures, training for liquidators, and mechanisms for intervention by collective management organisations and the CNC for orphan works.

On the subject of unclaimed works, the report recommends defining a graduated intervention framework to prevent works from "disappearing" and no longer being able to be exploited. The private sector should be heavily involved by offering producers, distributors or publishers active in the market the possibility of taking over works or catalogues in liquidation for exploitation, with all the necessary guarantees for any authors who subsequently come forward. In the absence of a private buyer, the collecting societies (SACD, SCAM, Procirep) could intervene on a temporary basis as provisional agents to preserve their members’ rights and manage the exploitation of these works.

Among the actions that could be envisaged, the report suggests amending the intellectual property code’s provisions on unclaimed works (Article L.135-1 *et seq* .) by opening up the commercial exploitation of these works to private players, subject to expert appraisal of the EU Directive on orphan works, with full remuneration guarantees when a rightful owner emerges.

Culture Minister Rachida Dati said: “This is the first time that the subject of France’s audiovisual heritage has been addressed in a comprehensive way, and I am delighted that Michel Gomez’s report sets out concrete and ambitious proposals that I support in principle. I’m thinking in particular of his idea of extending the CNC’s support activities to include audiovisual heritage, setting up CNC funding for the restoration and dissemination of this heritage, and developing the distribution of audiovisual heritage via the INA’s Madelen platform in

particular”.

État des lieux et propositions sur le patrimoine audiovisuel français, Rapport de la mission de Michel Gomez, remis au CNC, octobre 2025

https://www.cnc.fr/documents/36995/156431/Rapport+Michel+Gomez+sur+le+patrimoine+audiovisuel+francais.pdf/902c1703-7e26-441c-191e-b7154e371651?t=1760530928455

Current situation and proposals on France's audiovisual heritage, report by Michel Gomez submitted to the CNC, October 2025

https://www.cnc.fr/documents/36995/156431/Rapport+Michel+Gomez+sur+le+patrimoine+audiovisuel+francais.pdf/902c1703-7e26-441c-191e-b7154e371651?t=1760530928455

UNITED KINGDOM

[GB] BBC’s Panorama documentary "*Gaza: How to Survive a Warzone*" in violation of the Broadcasting Code

Julian Wilkins
Wordley Partnership

Ofcom determined that an episode of BBC’s, a public service broadcaster, current affairs series *Panorama*, entitled "*Gaza: How to Survive a Warzone*" and produced by the independent production company HOYO Films (HOYO), was misleading and breached Rule 2.2 of the Broadcasting Code. This was due to the fact that the father of the 13 year old narratorheld a significant position in the Hamas administration.

The Programme was broadcast on terrestrial TV on 17 February 2025 and made available on the BBC’s streaming service, BBC iPlayer, on 17 and 18 February 2025, before being made unavailable to viewers.

The programme followed four children and several adults, capturing their experiences of living through the war in Gaza. Currently, international journalists cannot access Gaza, which Ofcom recognised presented significant challenges to broadcasters wishing to report testimonies on the area. Broadcasters often relied on local freelance crews and producers to depict the impact of the war on those who were experiencing it, in the public interest.

This programme relied on children and adults to comment on their experiences. The footage and accompanying narration included descriptions of Israeli attacks and of people seeking shelter at the local hospital. The narrator occupied a unique and prominent position in the programme and acted as a trusted guide to viewers.

The programme received complaints due to some incorrect interpretations, for instance, like "Yahud" being translated as "Israelis" rather than "Jews". However, the predominant complaint was that it did not declare that the main narrator's father was a deputy minister of agriculture in the Hamas administration.

Initially, Ofcom gave the BBC the opportunity to conduct its own investigation into the programme and to do so "as thoroughly as possible, and with the full scrutiny of the BBC Board". The BBC’s Director of Editorial Complaints and Reviews (the Editorial Review) conducted a fact-finding review of the programme while the broadcaster’s Executive Complaints Unit (ECU) considered the complaints.

On 14 July 2025, both the Editorial Review and the ECU concluded that the BBC had breached rule 3.3.17 of its Editorial Guidelines, which concern the avoidance of misleading of audiences. Ofcom started its own investigation to determine whether rule 2.2 of the Broadcasting Code had been breached: “Factual programmes or items or portrayals of factual of factual matters must not

materially mislead the audience."

Ofcom's investigation revealed that HOYO knew that the narrator's father was a Hamas deputy minister prior to broadcast, but did not inform the BBC. However, Ofcom considered that the BBC should have provided HOYO with more guidance and adopted a more proactive approach to risk management.

Ofcom was nevertheless not critical of the programme, considering the production team had ensured that the Israeli government had an opportunity to respond to the programme, and that their responses were included in the documentary.

In order to determine whether there had been a breach of Rule 2.2, Ofcom considered two questions. Firstly, did the omission of the information about the narrator's father cause the programme's content to be misleading? Secondly, did the omission of this information cause, or have the potential to cause, harm to audiences?

Although HOYO had not intentionally misled the BBC, ultimately, the broadcaster held editorial responsibility for what was broadcast on its platforms. Ofcom acknowledged that the BBC intended to improve its commissioning and compliance processes. Nevertheless, Ofcom concluded: " (...) we considered the BBC's failure to carry out rigorous compliance checks and provide adequate editorial oversight of a documentary (...) resulted in a serious omission, which had the clear potential to mislead viewers."

Ofcom considered the context and issues surrounding the production of the programme, including the highly contentious subject matter and the lack of access to information by independent journalists, which made it difficult to verify information. The consequence of this was that the programme carried a significant editorial risk, which the BBC ought to have mitigated during production. The omission in the programme risked eroding audience trust, whereby the viewer "can participate in the democratic process" and be "informed citizens."

While Ofcom acknowledged the BBC's apology and their commitment to tightening their processes and taking into account Article 10 of the European Convention on Human Rights regarding broadcasters' right to freedom of expression, the regulator considered the viewers had been materially misled.

Broadcast and On Demand Bulletin, Issue 531, 17 October 2025

https://www.ofcom.org.uk/siteassets/resources/documents/about-ofcom/bulletins/broadcast-bulletins/2025/531/gaza-how-to-survive-a-warzone-bbc2-bbciplayer-17-18-february-2025.pdf?v=406297

Communications Act 2003

https://www.legislation.gov.uk/ukpga/2003/21/contents

BBC's Editorial Guidelines, 2019

BBC Editorial Guidelines

https://www.bbc.co.uk/editorialguidelines/documents/bbc-editorial-guidelines-2025.pdf

[GB] High Court decision on the *Getty Images (US) Inc. and Others v. Stability AI Ltd*. case

Julian Wilkins
Wordley Partnership

On 4 November 2025, the UK's first court decision concerning generative AI and copyright was made in the High Court's judgment on *Getty Images (US) Inc. and others v. Stability AI Ltd* (the judgment). The judgement provides guidance on the meaning of "article" and "infringing copy" for the purposes of secondary copyright infringement, recognising that an "article" can be intangible.

The judgment concerns an AI image generation model, Stable Diffusion, developed and marketed by the AI company Stability AI (the Defendant). Several claimants were party to the judgment, with Getty Images, a company that owns a large photographic and film recording archive, as the lead claimant. All claimants are collectively referred to as the Claimants.

The Claimants contended that the training data used by the Defendant to train the Stable Diffusion system non-consensually used or "scraped" millions of copyrighted images from the Getty Images Websites, infringing section 17 of the Copyright, Designs and Patents Act 1988 (CDPA). The synthetic images created or "predicted" by Stable Diffusion in response to prompts strongly resembled the Claimants' copyrighted material, including Getty's trademarked material.

The Claimants' allegations included a court declaration that the Defendant's actions constituted a breach of copyright, trade mark infringement, passing off and breach of database rights.

Prior to the conclusion of the trial, the Claimants withdrew some of their claims including that of a primary breach of copyright pursuant to sections 16 and 17 of the CDPA. This claim was based on the allegation that Stable Diffusion reacted to similar prompts to the original captions and keywords and consequently the synthetic images it created closely resembled the copyrighted material. The Claimants had evidential problems proving that the training had occurred in the UK and whether the value or "weight" of process data used by Stable Diffusion copied the copyrighted material or at any time stored any of the Claimants' copyrighted works.

Regarding trade mark infringement, some of Stable Diffusion's generated outputs displayed Getty's registered trade marks, including the "GETTY IMAGES" and "ISTOCK" watermarks, and according to Getty, breached sections 10(1), 10(2) and 10(3) of the Trade Marks Act 1994.

Justice Smith (Smith J) held that Getty had proven trade mark infringement under sections 10(1) and 10(2) for a limited number of images that Stable Diffusion had produced. However, infringement did not apply to other Stable Diffusion generated images due to insufficient evidence that the distinctive character or the repute of Getty's relevant trade marks had suffered detriment, nor that the

economic behaviour of the average consumer would have been altered by the Defendant's conduct. Smith J did not address the claim of passing off, having determined the trade mark infringement.

The Claimants' database claims were based on provisions of the EU Database Directive (Directive 96/9/EC) and the Copyright and Rights in Databases Regulations 1997 (SI 1997/3032). The Claimants alleged their database rights had been infringed by the Defendant extracting a substantial part of the contents of the database. However, as with the primary copyright claim these claims were dropped and not considered in the judgment.

The Claimants did, however, pursue their secondary copyright infringement claim at trial, alleging that the Defendant had imported an infringing article into the UK, pursuant to sections 22 (importing an infringing copy) and 23 (possessing or dealing with an infringing copy) of the CDPA. This "article" was the pre-trained Stable Diffusion model.

Smith J agreed with the Claimants that "article" was not limited to tangible things and could include software, such as the Stable Diffusion model. However, the judge held that the pre-trained Stable Diffusion model was not an "infringing copy" under section 27 of the CDPA. The judge also held that the Stable Diffusion model did not at any time store any of the Claimants' copyright works. For an AI model to be considered an "infringing copy", it must at some point have contained a permanent or temporary copy of the copyrighted works used to train it.

To succeed with its secondary copyright infringement claims, the Claimants would have had to fulfil a three stage test: Stable Diffusion had to be either imported into the UK or possessed, sold, let, hired, or offered or exposed for sale or hire; the Stable Diffusion model had to be both an "article" and an "infringing copy"; and the Defendant had to know or have reasons to believe that Stable Diffusion was an infringing copy.

Smith J stated that:

"the Model (Stable Diffusion) itself does not store any of those Copyright Works; the model weights are not themselves an infringing copy and they do not store an infringing copy. They are purely the product of the patterns and features which they have learnt over time during the training process". (paragraph 600)

Getty Images (US) Inc. and others v. Stability AI Ltd. [2025] EWHC 2863 (Ch)

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwikvdzm1PmQAxXy8wIHHab1Jh0QFnoECBUQAQ&url=https%3A%2F%2Fwww.judiciary.uk%2Fwp-content%2Fuploads%2F2025%2F11%2FGetty-Images-v-Stability-AI.pdf&usg=AOvVaw0uLcGx8w366taKH76IMUBp&opi=89978449

[GB] Ofcom clarifies rules on politicians presenting news

Alexandros K. Antoniou
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The United Kingdom’s communications regulator, Ofcom, issued new guidance which took effect on 20 October 2025, clarifying how long-standing duties of due accuracy and due impartiality apply when politicians front programmes that include news. In a media environment where formats increasingly blend and news inserts appear within magazine or rolling discussion programmes, the regulator is drawing clearer lines to protect audiences while preserving freedom of expression.

Background

The legal background to this development is a High Court judgment earlier in 2025, *R (on the application of GB News Limited) v. Ofcom*, where it was held that, in law, a programme cannot simultaneously be a “news programme” and a “current affairs programme”. That distinction matters because Rule 5.3 of Ofcom’s Broadcasting Code prohibits politicians from serving as newsreaders, interviewers or reporters in news programmes (subject to narrow exceptions), whereas Rule 5.1 governs all news, requiring "due accuracy" and "due impartiality". The court confirmed that politicians acting in news presenting roles within non-news programmes (including current affairs) fall outside Rule 5.3 and are assessed under Rule 5.1. This clarified scope set the stage for an Ofcom consultation on whether Rule 5.3 should be broadened.

In light of wider media convergence pressures, Ofcom noted in its consultation that audiences increasingly encounter news elements embedded within non-news output (e.g. current affairs programmes that include short news updates) and that politician-presented programmes has become a more established editorial practice. Broadcasters largely urged Ofcom to avoid redrafting Rule 5.3, warning that a broad rewrite risked "operational uncertainty" and an unintended quasi ban on politicians presenting any kind of programme. Ofcom ultimately concluded that the existing pairing of Rules 5.1 and 5.3 *can* protect audiences, provided the Broadcasting Code guidance is modernised.

The Ofcom’s decision in detail

First, Ofcom updated its guidance to make clear that, if a sitting politician presents news within a non-news programme, their political status will normally be a relevant factor when assessing whether the news segment was presented with "due impartiality", as Rule 5.1 of the Code requires. The regulator will also consider the nature of the story and the presenter’s known position on that issue. The guidance advises broadcasters to refer to Rule 5.3, when the news falls within a news programme, underscoring that different standards are engaged depending

on genre.

Second, Rule 5.3 itself remains unchanged but the relevant guidance is tightened. Under the rule, no politician may be used as a newsreader, interviewer or reporter in a news programme unless, exceptionally, it is editorially justified, in which case the person's "political allegiance" must be made clear. However, the updated guidance clarifies what qualifies as "exceptional circumstances", that is, situations outside the broadcaster's control and not reasonably foreseeable (for example, during a live news bulletin, a sudden security lockdown leaves only a visiting MP in the studio; they deliver a brief, a verified public-safety update, with their party affiliation clearly labelled on screen). Ofcom emphasises that such cases should be rare and that licensees who regularly use political presenters must have contingency plans (for example, a standby non-political presenter on call or an immediate handover to the newsroom feed) to avoid breaching the prohibition if an unexpected news event breaks during their output.

Third, to reduce ambiguity, Ofcom refreshed the guidance definition of a "politician" to expressly include members of the House of Lords and representatives of political parties, while removing a previous reference to "activists". This update aims to capture those who hold or speak for formal political office, without straying into broader civic roles that are not the target of Rule 5.3.

Ofcom made clear that no rule categorically forbids politicians from presenting non-news programmes, including current affairs, provided there is no election period and the output complies with the Code. However, strong impartiality provisions continue to apply. Programmes addressing matters of "political or industrial controversy" or matters of major public policy must preserve due impartiality. The regulator emphasised that it would investigate, where necessary, to ensure that political presenters in current affairs do not tilt output away from well-balanced and well-informed debate.

Finally, recognising that public expectations of news and current affairs are evolving, Ofcom has indicated it may undertake further research into how audiences perceive mixed-format programmes. While that work could inform future refinements, for now, the regulatory settlement rests on clearer guidance rather than new rules. News remains a special case, current affairs with political presenters remain permissible, and editorial boundaries must be actively managed.

Ofcom updates guidance around politicians presenting news

https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-standards/ofcom-updates-guidance-around-politicians-presenting-news?utm_medium=email&utm_campaign=Ofcom%20updates%20guidance%20around%20politicians%20presenting%20news&utm_content=Ofcom%20updates%20guidance%20around%20politicians%20presenting%20news+CID_c30486fce5a5d501ce2ed37a1041a9bb&utm_source=updates&utm_term=news%20release

Politicians presenting news: Statement on proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code

https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-standards/consultation-politicians-presenting-news

R (on the application of GB News Limited) v. Ofcom [2025] EWHC 460

https://www.judiciary.uk/wp-content/uploads/2025/02/GB-News-v-Ofcom.pdf

Guidance Notes - Section Five: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions

https://www.ofcom.org.uk/siteassets/resources/documents/tv-radio-and-on-demand/broadcast-codes/2025/guidance-notes-section-five-due-impartiality-and-due-accuracy-and-undue-prominence-of-views-and-opinions.pdf?v=406322

IRELAND

[IE] Irish media regulator determines that WhatsApp and Pinterest are "exposed to terrorist content"

James Kneale
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On 11 and 16 October 2025, *Comisiún na Meán* (the Commission), the Irish media regulator, made decisions determining that WhatsApp Ireland Ltd. (in respect of the service Channels) and Pinterest Europe Ltd. are "exposed to terrorist content".

The Commission is the Irish competent national authority under Regulation (EU) 2021/784 on addressing the dissemination of terrorist content online (the Terrorist Content Online Regulation). In this role, it is responsible for overseeing the implementation of specific measures required to be taken under Article 5 of the Terrorist Content Online Regulation by hosting service providers that have been deemed to be exposed to terrorist content.

Under Article 5 of the Terrorist Content Online Regulation, hosting service providers that are exposed to terrorist content are required to take certain specific measures to protect their services against the dissemination to the public of terrorist content; these may include mechanisms for users to flag terrorist content to the provider or technical or operational measures to expeditiously remove or disable access to terrorist content. The hosting service provider will be subject to these obligations where it has been deemed, by the competent national authority, to be "exposed to terrorist content" under Article 5(4) of the regulation.

In Ireland, the Commission has adopted a Decision Framework on hosting service provider exposure to terrorist content. Under this framework, the Commission will consider deciding that a hosting service provider is exposed to terrorist content where the provider has received two or more final removal orders during the previous year requiring the provider to remove or disable access to terrorist content. After receiving comments from the provider, the Commission will then make a decision as to whether the provider is or is not exposed to terrorist content.

In exercise of these powers, the Commission has now made decisions that WhatsApp Ireland Ltd. and Pinterest Europe Ltd. are "exposed to terrorist content". As a result, these entities will be obliged to take measures under Article 5 to protect their services against the dissemination to the public of terrorist content.

These decisions mark the third time that the Commission has decided that particular hosting service providers are exposed to terrorist content. On 13 November 2024, the Commission decided that TikTok Technology Ltd., Twitter International UC and Meta Platforms Ireland Ltd. (in respect of Instagram) were

exposed to terrorist content. On 16 December 2024, the Commission decided that Meta Platforms Ireland Ltd. (in respect of Facebook) was exposed to terrorist content.

Regulation (EU) 2021/784 on addressing the dissemination of terrorist content online

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R0784&qid=1762526090705

Comisiún Na Meán, Notice of Decision that WhatsApp Ireland, in respect of the service Channels, is exposed to terrorist content

https://www.cnam.ie/app/uploads/2025/10/Decision-Notice-WAIL-16SOct25-ENG.pdf

Comisiún Na Meán, Notice of Decision that Pinterest Europe Ltd. is exposed to terrorist content

https://www.cnam.ie/app/uploads/2025/09/Decision-Notice-Pinterest-11Sept25-Eng.pdf

ITALY

[IT] Italy enacts comprehensive AI law that establishes human authorship requirement for copyright protection and criminalises deepfake dissemination

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On 23 September 2025, Italy enacted a new law designed to facilitate the application of the AI Act. The law promotes correct, transparent and responsible AI use whilst guaranteeing oversight of risks and impact on fundamental rights. Within the broader framework of this law, a few copyright-related provisions merit particular attention.

The most significant intellectual property provision appears in Article 25, which amends the Italian Copyright Law to insert the word “human” into the phrase “works of intellect”, and to specify that works created with the assistance of artificial intelligence tools qualify for protection only when “they constitute the result of the author’s intellectual work”. This establishes an explicit human element requirement for copyright protection, a standard that will evidently develop through case law, as courts distinguish between varying levels of human involvement in the creative process.

Simultaneously, the law also introduces Article 70-septies to the Italian Copyright Law permitting reproductions and extractions from legitimately accessible works for text and data mining through AI systems, including generative AI, whilst preserving protections under the Berne Convention.

The Italian AI Law also introduces criminal sanctions targeting AI-enabled misconduct, with the centrepiece being a new provision of the Italian Criminal Code establishing that anyone who causes unjust harm to a person by disseminating, without their consent, images, videos or voices falsified or altered through the use of artificial intelligence systems and non-consensual deepfakes capable of misleading as to their genuineness, faces imprisonment of between one and five years. Prosecution generally requires a victim complaint, except when connected to offences or involving vulnerable persons (such as minors) or public officials.

The new law establishes AI-specific aggravating circumstances and enhanced penalties across multiple criminal domains, including a general aggravating circumstance when AI systems constitute insidious means or aggravate the consequences of a crime. Political conspiracy involving AI-based deception is punishable by two to six years' imprisonment, whilst AI-based market manipulation attracts two to seven years plus fines of up to EUR 6 million.

Unauthorised text and data mining from online works using AI systems also constitutes criminal copyright infringement, whilst preserving legitimate access exceptions.

The law presents both opportunities and challenges for different stakeholders. Rights holders gain clearer legal frameworks to protect human creative works and prevent unauthorised AI training, whilst developers and platforms obtain greater certainty regarding permissible uses under the legitimate access framework. Both constituencies face implementation questions as courts develop interpretative guidance on key provisions.

Legge 23 settembre 2025, n. 132, "Disposizioni e deleghe al Governo in materia di intelligenza artificiale"

http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2025-09-23;132

Law No. 132 of 23 September 2025, laying down the "Provisions and delegations to the Government on artificial intelligence"

Regolamento (UE) 2024/1689 del Parlamento europeo e del Consiglio del 13 giugno 2024 che stabilisce regole armonizzate sull'intelligenza artificiale (legge sull'intelligenza artificiale)

http://eur-lex.europa.eu/eli/reg/2024/1689/oj/eng

Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)

Legge 22 aprile 1941, n. 633, "Protezione del diritto d'autore e di altri diritti connessi al suo esercizio"

https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1941-07-16&atto.codiceRedazionale=041U0633&atto.articolo.numero=0&atto.articolo.sottoArticolo=1&atto.articolo.sottoArticolo1=0&qId=a5b39b32-80df-4868-a12a-4a86820d51b1&tabID=0.7697495245055012&title=lbl.dettaglioAtto

Law No. 633 of 22 April 1941, "Protection of copyright and other rights connected to its exercise"

Convenzione di Berna per la protezione delle opere letterarie e artistiche, ratificata e resa esecutiva con Legge 20 giugno 1978, n. 399

https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1978-06-20;399

Berne Convention for the Protection of Literary and Artistic Works, ratified and implemented in Italy pursuant to Law No. 399 of 20 June 1978

MOLDOVA

[MD] NRA sanctions to protect minors

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At its meeting on 13 November 2025, the national media regulator of Moldova, the Audiovisual Council (CA), decided to impose a fine of 5 000 Moldavan leu (about €250) on the national public TV station Moldova-1, for violating the rights of minors.

Violations were found, following investigation of the complaint by a private citizen, in the story broadcast as part of the 9 p.m. news bulletin *Mesager* (*Messenger*), on 19 September 2025. The story reported on the lack of teachers at kindergartens in Chisinau. Violations were confirmed in video sequences filmed inside a particular kindergarten with children in the playroom, in the playground and during day sleep preparations. Their faces were clearly visible and could be easily identified, as the number of the kindergarten and the district in which it is located were provided. According to the report of the CA, there was no evidence that the consent of parents or legal representatives for filming and broadcasting the minors had been obtained. The CA thus found violations of the provisions of Article 15 of the Audiovisual Media Services Code (Protection of minors), and paragraph 38 of the CA Regulation on Audiovisual Content, regarding respect for the rights of minors in audiovisual programmes.

Moreover, according to the conclusion of the national expert body on the protection of personal data, provided to the CA, the presence of minors in the news report “had no direct editorial justification, since the topic of the material concerned the lack of educators and the problems of the preschool system, not the activity or behaviour of children”.

In a related development, on 13 October 2025, the city court of Chisinau dismissed as unfounded the complaint filed by the private broadcaster PRO TV Chisinau in relation to a decision of the CA from March 2024. The TV station was fined 5 000 Moldavan leu for violating the provisions of the general requirements for audiovisual commercial communications. In that incident, the CA looked into the show *Gusturile se discus* (Tastes are discussed) broadcast on 20 January 2024, wherein the wine and sparkling wines of a merchant were advertised without the obligatory by-law warning that excessive consumption of alcohol is harmful. The CA pointed, in particular, to the fact that, during the show, alcohol was openly consumed, including by the show's presenters, in front of a guest who was a minor.

The obligatory dissemination of the warning regarding the harm of excessive alcohol consumption is provided for in Article 43 paragraph (2) of the Law on Advertising.

Audiovisual Media Services Code of the Republic of Moldova No. 174/2018 of 8 November 2018. Published: 12 December 2018 in Monitorul Oficial No. 462-466 Article 766

Law on Advertising No. 62 of 17 March 2022. Published: 8 April 2022 in Monitorul Oficial No. 98-105 Article 171

CA sanctioned the national public station Moldova 1 with MDL 5 000 for violating the rules regarding the protection of minors. 13 November 2025

CA wins a lawsuit filed by PRO TV Chisinau regarding the advertising of alcoholic beverages. 22 October 2025

NETHERLANDS

[NL] Dutch Media Authority launches new hotline for children to report undisclosed advertisements on social media

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On 4 November 2025, the *Commissariaat voor de Media* (Dutch Media Authority) introduced a special hotline for children (*De Klachtenknop*), allowing them to submit an anonymous tip if they believe that an influencer has uploaded sponsored content without labelling it as such. The initiative was launched on the occasion of the national Media Literacy Week, which took place from 7 to 14 November 2025.

The Media Authority monitors the compliance of audiovisual media service providers with the Media Act 2008. Under Article 3a.5 of the act, all audiovisual commercial communications on a video platform service must be recognisable as such. Since 2022, influencers who upload video content through a third-party video platform service can qualify as providers of an on-demand commercial media service and be subjected to the Media Authority's active supervision. In 2024, the Media Authority issued its first fine to a TikTok influencer for publishing videos containing undisclosed advertisements. In 2025, it also adopted a revised policy rule on the classification of on-demand commercial media services, which broadened the range of video uploaders falling within its oversight (IRIS 2025-7:1/19).

Additionally, all persons who advertise on social media, whether or not actively supervised by the Media Authority and regardless of their number of followers, must comply with the Advertising Code for Social Media & Influencer Marketing. It applies to all forms of content which may contain advertising, including text messages, pictures, podcasts, videos, and streaming. All persons who advertise on social media, regardless of their number of followers, must disclose that they obtain an advantage for showcasing certain products or services. Such an advantage may take the form of a monetary payment, a discount, or free goods. Social media users consuming sponsored content must also be able to clearly identify it as such.

The new hotline is expected to enhance the Media Authority's capacity to monitor sponsored content on social media and ensure a safe online environment for young people.

Commissariaat voor de media, Commissariaat opent meldpunt voor kinderen

https://www.cvdm.nl/nieuws/commissariaat-opent-meldpunt-voor-kinderen/

Dutch Media Authority opens hotline for children

UKRAINE

[UA] The Broadcasting Code on Memorial Days for linear services enters into force

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On 1 September 2025, members of the Co-regulatory body for audiovisual media services signed the first Broadcasting Code (hereafter: the Code) created by this body. The Code sets out rules on the broadcasting of content by linear services on memorial days. The document is the first to have been created on the basis of the law "On Media", which regulates the work of the media on memorial days.

Ten out of twelve members of the co-regulatory body have signed the Code, which entered into force on 1 September. Since then, all linear audiovisual media services in Ukraine (television channels) have been obliged to adapt their broadcasting content on memorial days in accordance with the new rules.

The main purpose of the Code is to ensure due respect for tragic events in history, honour the memory of the deceased, and prevent the dissemination of entertainment and other content that may be considered inappropriate or offensive in the context of commemoration dates. The Code therefore establishes uniform and ethical standards.

The document was approved by:

- The Board of the Public Association “Co-regulatory Body in the Sphere of Audiovisual Media Services” (as per minutes dated 17 July 2025, No. 13);

- The National Council of Ukraine on Television and Radio Broadcasting (decision dated 21 August 2025, No. 1692).

Representatives of the industry, the media regulator, and public experts were involved in developing the Code.

The broadcasting Code aims at establishing uniform and ethical standards for all linear services. According to the national regulatory authority (the National Council), it is important that compliance with the rules is not limited to graphic images on screen. Instead, it is important for the media to create programmes explaining why Ukrainians commemorate certain dates. When monitoring television channels, the National Council will now be guided by the Code. The rules establish exactly how broadcasting policy should adapt on memorial days. In particular, television channels are required to:

- stop broadcasting comedy films and humorous programmes (not mandatory for children's television channels);

- inform viewers of the memorial day at least once every two hours between 6 a.m. and midnight (not mandatory for children's, music and adult television channels);

- include information about the memorial day in each news bulletin between 6 a.m. and midnight (not required where the news is a repeat from a previous period and carries the title "repeat").

The National Council will also monitor the creation and placement of content dedicated to memorial days in the news.

A minute of silence is mandatory only when it is expressly provided for by law:

- if the regulatory act establishing the memorial day provides for a minute of silence, but does not specify its time, the minute of silence on that day is to be at noon.

- if the exact hour is specified in the regulatory act establishing the memorial day, the broadcaster must announce a minute of silence at that specified time.

Therefore, the service provider should focus not only on introducing the memorial day, but also on the content of the regulatory legal act establishing it (the Law of Ukraine, resolutions of the Verkhovna Rada of Ukraine, decrees of the President of Ukraine, and so on).

In addition to the new rules, broadcasters should also establish a unified stylised image concerning the following four days:

- the Holocaust Remembrance Day (on January 27) – a stylised image of a menorah;

- the Day of Remembrance and Victory over Nazism of the Second World War 1939-1945 (on 8 May) – a stylised image of a poppy flower;

- the Day of Remembrance of the Defenders of Ukraine who died in the struggle for independence, sovereignty and territorial integrity of Ukraine (on 29 August) – a stylised image of a sunflower;

- the Day of Remembrance of the Victims of the *Holodomor* (on the fourth Saturday of November) – a stylised image of a burning candle.

Such stylised images are not mandatory for children's media, music formats and channels for adult audiences.

At the same time, on other memorial days, broadcasters are encouraged to independently place graphic elements that are appropriate for honouring that day.

Broadcasting Rules on Memorial Days for linear audiovisual media services

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