GESAC submission to the European Commission Call for Evidence - Targeted initiative for a better copyright environment for European creativity and innovation

June 24, 2026

Introduction

The European Grouping of Societies of Authors and Composers (GESAC) welcomes the European Commission's (EC) Call for Evidence as an important and necessary first step towards introducing an additional legislative framework addressing key challenges in the field of copyright/authors' rights.

GESAC represents more than 1.2 million creators from all artistic fields through its 32 authors' society members (authors' Collective Management Organisations (CMOs)) from across the EU/EEA.

From the perspective of creators, the current policy debate is characterised by two urgent and interrelated priorities: i) the impact of GenAI on copyright, licensing and remuneration, and ii) the persistence of buy-out practices, which continue to undermine the effectiveness of EU copyright protections and the ability of creators to participate in the economic success of their works.

In this context, any future initiative must focus on restoring the core principles of EU copyright law, in particular the effective exercise of authors' rights, the possibility to license uses at scale, and the guarantee of appropriate and proportionate remuneration. It is essential that the EC addresses the structural issues identified in the evidence with targeted new legislation and moves beyond non-binding or procedural measures, such as mediation, guidance or voluntary frameworks, which have proven insufficient to ensure compliance in practice.

By contrast, GESAC considers that no further action is required with regard to the scientific research exception. The current framework is functioning effectively and should not be extended. If anything, collective licensing mechanisms – including extended collective licensing – provide the most appropriate solution to facilitate access to protected content for research purposes while ensuring remuneration for creators. The Commission's proposals should therefore refrain from extending the scope of exceptions to new usages and should not change the selective and non mandatory nature of the existing exceptions.

The present submission sets out in detail why and for which issues legislative action is necessary, and the evidence supporting these conclusions.

Chapter 1: Generative AI and copyright

GESAC considers that a dedicated EU legislative initiative is necessary and the only effective means to address the current and emerging challenges raised by GenAI in relation to authors' rights. This momentum is clearly reflected in recent work by the EU co-legislators and public statements by the EC:

- The Danish Presidency Summary Report on *"Fostering a well-functioning framework for licensing in the age of AI"* highlights that a strong majority of Member States calls for additional measures.
- The European Parliament (EP)'s Resolution on *"Generative AI and Copyright"* adopted in March 2026, stresses that current copyright law is insufficient to address GenAI-related licensing challenges and explicitly calls for an additional legal framework.

GESAC fully aligns with these political assessments and considers that they provide a clear and legitimate basis for a dedicated EU legislative initiative as set out in our below views.

Subchapter 1.1 Why an additional EU legislative intervention is needed

1. The current framework does not adequately resolve a number of persistent and structural problems. **The unauthorised use of protected works by GenAI services continues on a massive scale**. Major global GenAI services operating in Europe still refuse to cooperate with authors and other rightsholders and do not provide appropriate remuneration, despite widespread knowledge and public statements confirming that protected content has been extensively used in the training, development and functioning of their models.

   See in this regard public statements by major AI developers themselves:

   - "Mark Zuckerberg is said to have allowed AI training with pirated copies" *as revealed in court proceedings.*
   - *Suno AI admitting in their legal filings that they used all protected works on the web,* see here an article.
   - "Microsoft's AI boss thinks it's perfectly okay to steal content if it's on the open web" *referring to Mustafa Suleyman's video.*
   - "'Impossible' to create AI tools like ChatGPT without copyrighted material', OpenAI says" *referring to OpenAI's statement at the House of Lords evidence gathering in the UK Parliament.*
   - "How Tech Giants Cut Corners to Harvest Data for A.I." *the investigative article published on New York Times*

   Across multiple jurisdictions, CMOs report that GenAI services are trained on and reproduce or otherwise use protected content at a large scale and rightsholders have identified the use of their repertoire on a number of occasions. Some members of GESAC have received complaints from their creator members in this regard, others have discovered lyrics in "almost every" tested

LLM, while others have reached such conclusion through their own- or third-party experts' experience.

Copyright infringement where the works were stored in the systems and reproduced when prompted has been further confirmed through legal actions. Lawsuits have been initiated against providers of AI systems for unauthorised use of protected works, including in training, development and functioning of GenAI services. For example:

- The Regional Court of Munich (Germany) stated in its judgment dated November 11, 2025 (Case No. 42 O 14139/24) in the case GEMA v. OpenAI, that the song lyrics at issue were included in the training data on which the defendants' models were trained. The works were almost entirely saved in the systems and then retrieved. The court also stated that the TDM exception is not applicable in case of memorisation. Recent tests show that, even following the ruling, lyrics are still stored on a large scale in mainstream large language models.
- In the Case No. 42 O 763/25, GEMA v. Suno, Inc., pending at the Regional Court Munich (Germany), GEMA showcased that it was able to generate output music files that are nearly indistinguishable from the original recordings of the songs, using simple prompts – consisting only of the song lyrics and a few additional indications (e.g., the genre "Schlager").
- In a separate case in Germany, the Penguin Random House Publishing Group has taken legal action against OpenAI. ChatGPT generated children's books with numerous illustrations containing copyright protected literary characters in response to simple prompts.
- Another example is the lawsuit Koda v. Suno filed November 4, 2025, in Denmark, where Koda presents concrete evidence that Suno has used among others, "Barbie Girl" by Aqua, "Final Song" by MØ, "Sleeping My Day Away" by D-A-D, "Move Your Feet" by Junior Senior, and "Sunshine Reggae" by Laid Back. As regards the rights of the songwriters behind these tracks no permission was asked and any remuneration was paid by the U.S. tech company.

2. **The few licences that exist are concentrated among major rightsholders and global AI** companies, mainly as **result of United States-based litigation** settlements. These arrangements lack transparency, provide no clarity as to their scope, resemble commercial settlements under so-called data partnerships rather than rights-based licences, European authors and composers are not remunerated and their future may depend on interpretations of fair use under United States law, offering no viable solution for European authors and composers.

3. The **CDSM Directive only addresses certain acts of reproduction linked to TDM**. Its applicability to AI training remains questionable and, in any case, it does not cover the full range of copyright-relevant acts involved in developing, operating and offering GenAI services. Although exclusive rights should apply either directly when usage goes beyond TDM exception or by reservation if/when covered by TDM, the absence of enforceable transparency and cooperation mechanisms renders those rights unenforceable in practice.

4. The **implementation instruments adopted by the AI Office** have **significantly weakened the practical effectiveness of the AI Act's copyright-related provisions**, if not made them completely obsolete. They also do not effectively address the liability issues for all the GenAI

services available in the EU that go beyond the definition of 'GPAI model'. Relying on the AI Act alone to establish a functioning licensing market has therefore become unrealistic.

5. **AI-generated content is increasingly used by digital service providers, broadcasters and public spaces, creating growing substitution and dilution effects**, entering into direct unfair competition with original works used for training, while the application of existing copyright rules is systematically challenged where protected works are not recognisable in the output.

Taken together, these elements demonstrate that neither reopening the CDSM Directive nor adjusting the AI Act implementation would provide a comprehensive solution. A new legislative initiative is required to restore balance, stop ongoing infringements and ensure effective protection of authors' rights in the GenAI environment, thereby enabling a well-functioning licensing market across the Gen AI value chain.

Subchapter 1.2 Key issues to be addressed at EU level

The Call for Evidence states that "*Policy options may include improving rightholders' access to information on the use of their content where challenges or gaps are identified, facilitating licensing through mediation or arbitration or potential new measures to enable appropriate remuneration for creators*"

The creators' community represented by GESAC strongly believes that the forthcoming EU initiatives should include strong, substantive and actionable provisions to clarify and confirm application of authors' rights to GenAI services and/or, where needed, introduce new rights and procedures that ensure appropriate remuneration of creators based on their rights.

It is important to note in this respect, without the clarification about the application of the EU laws and the legislative confirmation of the rights of creators that should apply to the AI services when they are available in the EU, as outlined below, no mediation or arbitration scheme can facilitate licensing for European creators and rightholders. And a mediation/arbitration scheme without those essential clarifications and legislation introducing a rebuttable presumption scheme, can only lead to providing another pretext to avoid respect for EU rights and perpetuate current wide scale infringement of rights by major global GenAI businesses.

We also note that the 'Call for Evidence' does not properly refer to the growing substitution/dilution effect of AI outputs, where they unfairly compete with original works that they used without authorisation and imperil authors' remuneration also in other markets.

Please find below GESAC's proposals on the issues that need to be addressed in the forthcoming legislative proposal.

1. Use of protected works as input to GenAI services

Urgent legislative clarification is needed regarding the substantive and procedural rules to tackle the ongoing unauthorised and unremunerated use of protected works in the training, development and functioning of GenAI services. This should ensure:

i) **The effective application of EU copyright law to all services operating in the EU.** EU copyright and enforcement rules must clearly apply to all GenAI services available in the EU, regardless of where training takes place, whenever the actual or potential harm occurs in the EU, a view also clearly expressed by the Member States and EP. This legally and politically very important objective has been clearly asked by the Report of the European Parliament (the Voss Report) and a number of Member States, including in the DK Presidency Summary Report and the Council meetings of Culture Ministers. The French CSPLA published an extensive analysis[1] providing the basis of its application at EU level and this analysis is supported by the CJEU rulings[2] and several other academics. Any intervention on copyright and GenAI should have this principle as a priority for European sovereignty to ensure a level playing field for European AI companies against the non-EU based tech giants that circumvent EU protections by relying on the laws of their countries.

ii) The introduction of a **rebuttable presumption of use to rebalance the burden of proof.** Without meaningful transparency and cooperation, proving infringement is practically impossible. **A rebuttable presumption of use is therefore essential**. It should apply when GenAI services refuse to cooperate with authors' CMOs and main rightholders, or fail to provide granular transparency. The cooperation should be in good faith and with a view to obtain licences and the presumption applying automatically where the relevant conditions are met. It **is important to note that the presumption of use applies to all usages of protected works by GenAI services, going beyond the use for training only**, since the issue concerns also the exclusive rights that can in no way be part of the limited TDM exception and the opt-out regime that may apply (see in any case our comments above and below relating to the limits and inherent dysfunctionalities of the opt-out regime as a basis to create a functioning licensing market for GenAI value chain). This is particularly relevant considering the fact that usages of protected works in the process of memorisation, RAG and fine-tuning are happening in a much larger scale than initially pretended by the GenAI services. This is becoming increasingly more obvious with the recent court cases[3] and research on the functioning of the GenAI services.[4]

iii) **Transparency obligations specifically designed for copyright protection**. They are indispensable for effective exercise and enforcement of rights. Existing transparency requirements, particularly those developed by the AI Office, are insufficient for copyright purposes. GenAI services should be required to cooperate in good faith with CMOs and main

[1] CSPLA, "*Mission report on the applicable law, under the rules of private international law, to generative artificial intelligence models available in the European Union*", December 2025.
[2] CJEU widely ruled on this issue and confirmed most recently in its C-251/20 Gitflix TV ruling that **it is the Court's "settled case-law"** that the place where the harmful event occurred or may occur can be either the place where the damage occurred or the place of the event giving rise to it, so that the defendant may be sued – at the option of the plaintiff – in the courts for either of those places (see in particular paragraphs 23-27). This view was also defended by the European Commission in the *C-250/25 Like Company* case relating to Google's AI chatbot in recent Hearing of the Court.
[3] See GEMA's cases against OpenAI and Suno, as well as the case of Penguin Books against OpenAI.
[4] Jane C. Ginsburg, Xinyue Liu, Niloofar Mireshghallah, Tuhin Chakrabarty "*Alignment Whack-a-Mole: Finetuning Activates Verbatim Recall of Copyrighted Books in Large Language Models*", 2026.

rightsholders, either through licensing or by providing detailed and verifiable information demonstrating that protected works were not used. Trade secrets cannot justify systematic non-compliance.

2. Substitution and dilution effects in output markets

The large-scale availability of AI-generated content undermines the value of human-created works and reduces creators' remuneration. The combination of unauthorised use at the input stage and substitution at the output stage -creating unfair competition with the protected repertoire and therefore a distorted competitive environment- exposes creators to serious revenue losses across cultural sectors as evidenced by recent national, international and internal sectoral studies.[5] Moreover, a significant share of content submitted to streaming platforms is already purely AI generated, facilitating market manipulation and fraudulent practices,[6] while AI outputs also create a distorted competitive environment in other existing markets.[7]

GESAC members observe substitution effects linked to AI-generated content, including partial or full replacement of licensed repertoire in certain uses for the sole purpose of not paying royalties for creative content using the GenAI services that have developed without permission or remuneration of creators. EU law and policy cannot allow development of a business model that is created on the basis of infringement of EU law, including violation of creators' rights protected by the Charter of Fundamental Rights.

Future EU rules must address these effects through a copyright-based approach. AI-generated output necessarily uses and embodies protected works, even where individual works are not identifiable. Creators and rightholders should be entitled to remuneration from GenAI

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[5] Here are figures based on recent economic studies from national and international markets:

- For Germany and France see here the Goldmedia study pointing to a possible 27% loss of music creators' revenues by 2028.
- For Spain see here the study of Univesidad Carlos III de Madrid and Know Media, which measures that AI could reduce music copyright revenue by up to 28% by 2028.
- For Denmark see here the study of HBS Economics predicting 28% revenue loos by 2030.
- At international level covering the world and both music and AV sector see here the PMP Strategy study that also finds possible revenue losses of 24% and 21% for music and audiovisual authors respectively.

GESAC's internal survey among its members also shows a dangerously growing unfair competition of AI-generated content and services replacing human created works, on which they are trained without authorisation, as such content is offered at low or zero cost to third party businesses – a parasitic market that emerges due to legal uncertainty and that should be prevented from growing further.

[6] See here the figures published by Deezer, the music streaming service, showing that "*AI-generated tracks now represent 44% of all new uploaded music. (...) Deezer has found that up to 85% of the streams generated by fully AI-generated tracks were in fact fraudulent in 2025*".

[7] This issue is widely raised in academia as well, including by the economic and legal studies commissioned by the Europea Parliament. See also Prof. Michel Walter "*On the training of artificial intelligence under EU copyright law on the assumption that TDM-exception applies to training of generative AI models*" 2025; Prof Joseph Drexl "*EU Copyright Reform: Between Promoting AI-Based Innovation and Safeguarding the Livelihood of Authors and Democracy*" 2026; Prof. Daniel Gervais "*The Remuneration Of Music Creators for the Use of Their Works by Generative AI*" 2024.

services and downstream users such as digital platforms, broadcasters, public performance venues, etc.

Legislative clarification should confirm that authors'/rightholders' existing reproduction and communication to the public rights in original works extend to the generation and exploitation of AI-generated output. While collective management is the most effective way of licensing for authors and composers in general, it is an essential part of the solution when it comes to exploitation by third party businesses in the downstream markets to provide legal certainty for users, prevent market foreclosure, and ensure an appropriate remuneration for all creators whether big or small.

Another option to consider in this respect would be the creation of a new exploitation right, on which there are also several academic papers and dedicated discussions at some Member States.

Subchapter 1.3 Focus on effective measures avoiding further inefficiencies

GESAC cautions against proposals that would add complexity without addressing core problems, particularly a central EU-wide opt-out registry, list of opt-out protocols without clear obligations on DSPs, new or extended exceptions, or **mediation mechanisms without guarantees in substantive law**, **which would only delay compliance and perpetuate current large-scale infringements**.

Conclusion: Generative AI and copyright

GESAC firmly believes that a **dedicated EU legislative initiative on GenAI and copyright/authors' rights is urgently necessary**. Only a comprehensive, rights-based and enforceable framework can stop ongoing infringements, restore legal certainty, enable licensing markets and ensure fair and continuous remuneration for creators in the age of GenAI.

GESAC looks forward to further cooperating with the European Commission to provide more evidence and work on the concrete options that could deliver the above-mentioned objectives.

Chapter 2: Buy-out contracts and structural circumvention of authors' appropriate remuneration

The issue of buy-out contracts represents one of the most significant and well-documented structural challenges to the effectiveness of EU copyright law and to the remuneration of creators. This issue awaits for concrete legislative intervention as there is no lack of evidence or analytical uncertainty on the need to act. On the contrary, it is extensively documented through EC and EP's policy work, expert studies, stakeholder consultations and concrete examples of contractual provisions received by the Commission in confidence.

GESAC emphasises that the evidentiary basis is complete. The issue now requires a targeted legislative response, in particular to address its **private international law dimension** and systematic circumvention mechanisms, in particular within the VoD and AI markets dominated by non-EU based players.

Subchapter 2.1 The economic logic of authors' remuneration and the disruptive effect of buy-outs

The remuneration of authors and composers is structurally based on a dual system.

On the one hand, authors, who are commissioned to create a work receive a fee/compensation linked to the actual work that an author/composer needs to undertake for the creation of the commissioned work. This remuneration given in consideration of the creative activity compensates the time, effort, production costs and artistic labour necessary to produce the work. This is a matter of general private law relating to work and delivery of service. On the other hand, and critically, authors receive remuneration linked to the exploitation of that work, through the exercise of their copyright/authors' right as recognised under the EU law and international treaties. The latter allows the collection of royalties, as their works are communicated to the public, reproduced or otherwise exploited over time through different or recurring usages based on copyright law.

This second stream of remuneration based on copyright law constitutes the core of the economic model of authorship in Europe. It ensures that creators participate in the success of their works and that remuneration reflects the actual use and value generated by those works in the market. It is also the mechanism through which the copyright system has historically adapted to new uses and new modes of exploitation, including in digital environments.

Coercive buy-out contracts fundamentally undermine this model. By combining these two elements of creators' work within one agreement, requiring authors to transfer their rights fully or partially and for the entire duration of protection including all types of usages, often against a one-off payment usually very low and covering both the commissioning of the work and remuneration based on copyright, these contracts eliminate any link between the exploitation of the work and the remuneration received by its creator. Authors receive an upfront payment that barely covers the cost of producing the work, if at all, and are excluded from any participation in the revenues that their works generate from different exploitations of works based on copyright law.

This represents a structural deviation from the objectives pursued by EU copyright law, including the principle of appropriate and proportionate remuneration. In this respect, the Recital 73 of the CDSM Directive noting that "a *lump sum payment can also constitute proportionate remuneration but it should not be the rule*" shall not be used as a justification for maintenance of or tolerance to coercive buy-out clauses, because, here, lump sum can be a reference to the form of payment within a time limited and/or specific usage contract but does not define the nature of transfer of rights. Coercive buy-out contracts typically confiscate the ownership of the rights of authors perpetually against a low level one-off payment with no control, transparency or any future revenues for any other usages for authors. Based on the information we receive from our members and the members of our members, we can observe that, especially in the video on demand (VoD) sector, authors and composers are systematically forced to accept coercive buy-out clauses by the US-based VoD platforms that are dominating the market in the EU. These contracts are typically subject to US law and the jurisdiction of US courts, sometimes even subject to work-made-for-hire regime. Such subjection to US law and jurisdiction of US judges enables these platforms to deprive the authors of their ownership over their works in spite of this not being allowed. Should authors dare to refuse these clauses, they are excluded from the project and even blacklisted for future projects.

In Europe, authors and composers have formed their collective management organisations to resist this kind of pressure and be able to exercise their rights collectively and more powerfully vis-à-vis major users in the market. However, the US-based VoD platforms go so far as to demand authors to leave their CMOs or threaten not to work with authors members of CMOs.

Art 18 was an important principle enshrined in EU law to ensure, in all cases, an appropriate and proportionate remuneration for creators. It however needs to be complemented with new additional rules at EU level. Such new additional rules should in particular address the private international law related aspects of the copyright contracts, in particular by ensuring the application of an appropriate and proportionate remuneration as a public order rule that cannot be circumvented through contracts, laying down that only the courts of the Member States are competent in the cases arising from such disputes, and establishing the central role of collective management organisations for ensuring, defending and claiming such appropriate and proportionate remuneration for the exploitation of the relevant rights of authors and composers.

Subchapter 2.2 Why Articles 19 and 20 CDSM Directive are not sufficient to address such coercive buy-out practices

Articles 19 and 20 are designed as corrective tools operating **after the conclusion of an exploitation contract** (such as for publishing, production, distribution, etc.) governing the exploitation of rights. They usefully aim to correct situations where a contract based on clear usages, rights and durations shall be adjusted so to avoid the unfairnesses based on lack of transparency and insufficiency of (ongoing) revenues earned based on copyright law comparing to unexpected success of the work, during the term of the contract. They are not designed to tackle the situation where an appropriate remuneration is eliminated at the outset through the entire transfer of rights with no future revenue possibility whatsoever.

They might be relevant for some cases where the lump sum payment has become disproportionately low comparing to the revenues that the work generated for the agreed usage during the term of a contract, but would not address the inherent problems and unfairness of coercive buy-outs. Coercive buy-out contracts typically confiscate the ownership of the rights of authors perpetually against a low level one-off payment with no control, transparency or any revenues at all for authors.

Thus, while Articles 19 and 20 are useful to address the unfairness in the proper exploitation contracts based on copyright law, they are not capable of preventing or tackling the coercive buy-out practices of this nature.

Moreover, since Chapter 3 of the CDSM Directive does not properly address the applicable law issues, when one party is outside the EU, and does not deal at all with the choice of courts issue, the above-mentioned buy-outs, in essence, also circumvent and dismantle the protections under Art 19 and 20.

Subchapter 2.3 Evidence of widespread, systematic and coercive practices

Buy-out practices are neither isolated nor limited to specific sectors. They are widespread and systemic, particularly in relation to audiovisual production and exploitation, and increasingly driven by global streaming platforms and large-scale digital services.. The same happens for the video-games sector as well.

For instance, this regime impacts the entire audiovisual sector in many Member States despite the purpose of Article 18 of DSM directive to correct such unfairnesses. Some Member States adopted a right to proportional remuneration for audiovisual authors to address the situation and comply with article 18 of the CDSM Directive. Such national laws attempt to introduce mechanisms to better guarantee proportional remuneration for audiovisual authors by entrusting its management to local audiovisual CMOs. However, these mechanisms are also challenged by streaming platforms. These same streaming platforms push buy-out provisions in individual contracts when they commission films to European producers.

These contracts typically contain a combination of clauses designed to eliminate the application of EU copyright safeguards. These include:

- the full transfer of rights covering all existing and future forms of exploitation, including modes of use not yet known at the time of contracting;
- the waiver, express or implicit, of any remuneration rights beyond the initial payment;
- the imposition of third-country law, most often United States law, combined with exclusive jurisdiction clauses in non-EU courts;
- contractual structures that effectively neutralise statutory rights, including those introduced by the CDSM Directive, such as transparency and contract adjustment mechanisms in Articles 19 and 20 CDSM, or by national laws such as moral rights or exclusive entrustment of rights by members to CMOs.

GESAC and many individual creators have provided concrete examples of such contractual arrangements to the EC on a confidential basis. These contracts clearly illustrate that the practices described are not theoretical but form part of standard contractual models imposed on authors. These agreements are frequently presented on a "take-it-or-leave-it" basis, reflecting a significant imbalance in bargaining power between individual creators and global platforms.

These practices are often imported into the European market through the globalisation of production and distribution models, in particular by non-EU-based streaming services that are dominant players in the EU market (like Netflix, Disney+, Amazon Prime, etc.).

The defining features of buy-out practices are the circumvention of EU copyright safeguards by hiding behind the private international law provisions, abusing the principle of "contractual freedom" by forcing creators to waive their fundamental rights protected by the Charter, non-disclosure clauses preventing any possibility of raising concern about them, and enhanced coercion through take-it-or leave it behaviour and blacklisting depriving authors even from any future work.

Subchapter 2.5 Extensive evidence base and political initiatives from all EU institutions

GESAC recalls that the issue of buy-outs has already been the subject of extensive analysis at EU level.

Both the EC and the EP have commissioned studies, conducted consultations and gathered stakeholder input on contractual imbalances and the remuneration of creators. These studies consistently identify buy-out practices as a key structural issue affecting the effectiveness of copyright law and the sustainability of creative sectors.

EU actions calling for an EU level intervention on and/or raising the buy-out issue

1. **Council**
   - **June 2022 — French Presidency to the EU**
     Report: « Effectivité du cadre européen du droit d'auteur »
   - **June 2023 — Council (OMC expert group / Council report)**
     Report: "The status and working conditions of artists and cultural and creative professionals."
2. **European Parliament**
   - **February 2025 — European Parliament (41 members of the EP reaffirm in a letter addressed to EVP Henna Virkkunen their unwavering commitment to Europe´s creators and the creative economy.)**
     They ask the EC to act now to finalize the work started by the EP by addressing, among other issues "the long-standing imbalance in power between creators and global platforms. Dominant video-on-demand services continue to impose buy-out contracts that exploit creators, leaving them with little choice but to accept unfair terms. The EP has repeatedly condemned these practices, and now legislative action is urgently needed."
   - **November 2023 — European Parliament (JURI commissioned study)**
     Study "Buyout contracts imposed by platforms in the cultural and creative sector" (CEIPI / Univ. of Strasbourg), commissioned by the JURI Committee.
     The study "underlines the fact that buyout practices are increasingly widespread and present a considerable risk for the European creative sector" and recommends legal solutions at EU level so that the DSM Directive's protective principles "are effectively implemented and not circumvented by giant non-EU based platforms imposing US rules and jurisdiction."

The issue of buy-out contracts has been repeatedly raised by the EP Resolutions:

- **Resolution on the situation of artists and the cultural recovery in the EU (2021)** – warned that buy-out clauses imposed by dominant streaming platforms deprive creators of royalties and hinder appropriate remuneration and called on the EC to act.
- **Resolution on Europe's Media in the Digital Decade: An Action Plan to Support Recovery and Transformation (2021)** – criticised the widespread use of work-for-hire and buy-out contracts by VOD services, urged the EC to study their impact on the audiovisual sector, and called for measures against coercive practices.
- **Resolution on the Intellectual Property Action Plan (2021)** – explicitly called on the EC to monitor buy-out contracts and investigate the practices of global streaming platforms, stressing their negative impact on creators' fair remuneration and the circumvention of EU rules.
- **Resolution on an EU framework for the social and professional situation of artists and workers in the cultural and creative sectors (2023)** – once again condemned abusive buy-out practices, particularly by non-EU VOD platforms, and **called on the EC to ensure enforcement of EU rules and to take action to eliminate such practices.**

3. European Commission

March 2025 – European Commission (Study commissioned by the Copyright Unit): Release of the EC study on buy-out and contractual practices affecting authors, performers and producers. The study finds that buy-out contracts—often signed early in production, involving lump-sum payments or minimal royalties—remain widespread across creative sectors (notably the audiovisual). These contracts arise from authors' and performers' weak bargaining positions and frequently result in unfair, non-proportionate remuneration, undermining long-term benefits for creators. Meanwhile, limited transparency and enforceability of EU rules (like the DSM Directive's fair remuneration principle) mean the problem persists.

Media Industry Outlook Report: it widely deals with the buyout problem of European independent producers against VOD platforms but notes in footnote 10 that "*The survey focused on the relationship between producers and streamers/broadcasters, but concerns have also been raised over the use of such practices on individual creators, such as music composers. This issue will need to be further examined*."

Commission Media Action Plan Communication: It included the reference to buy-out/work-for-hire practices by noting that "*the application by platforms of what could be defined a "work-for-hire" model (i.e., the acquisition of all the intellectual property rights from the producer and/or from individual creators since the start, worldwide and in perpetuity) can "lock in" producers/talents with the platform in question*."

Commissioner Breton’s statement at the EP as an answer to a question of an MEP in May 2023: See as of the time: 16:32:00 for the question and 16:36:46 for the answer (Commissioner’s personal commitment to find a solution to this is better reflected in the original French version).

Conclusion: Buy-out contracts and structural circumvention of authors’ remuneration

The evidence available leaves no doubt as to the existence, scale and effects of buy-out practices, especially for authors and composers in the VoD and AI sectors. The problem has been extensively documented through EC and EP work.

What is now required is a legislative response commensurate with the scale of the issue, including the following actions as the basis to address this growing unfairness in the EU digital market:

- Making the rule of appropriate and proportionate remuneration an internationally overriding mandatory rule by way of a public order principle. Making the principle, that already exists, an internationally overriding mandatory rule at EU level would make it effective and enforceable to reap the real benefit of this important principle. This has already been tried by certain Member States at national level with positive impact in the market.
- In addition, a straightforward position against buy-outs should also be considered at EU level, in the sense that a proportionate remuneration based on usage is the rule. Collective management has so far been an effective tool to ensure such appropriate remuneration for many creators who organised themselves around CMOs. However, as explained above, the current situation has increasingly left no other option to creators but to accept buy-outs and to renounce proportionate remuneration from continuous success/use of their works;
- It would be more impactful if complementary measures are envisaged where works produced on the basis of buy-out contracts do not qualify as European works for other legislative instruments, and in particular productions of streamers that impose total buy-out of authors’ rights are excluded from the benefit of European or national film funds and financial incentives.
- Investigating any further national solutions that have already been proven as effective to ensure appropriate remuneration of authors against these practices.

Chapter 3: Scientific research exception

GESAC considers that the current framework governing the use of protected content for scientific research is adequate and does not require further expansion or harmonisation.

The exceptions introduced under the InfoSoc Directive and the CDSM Directive already provide sufficient legal certainty and flexibility. There is no evidence in the material available demonstrating that these provisions are insufficient or that they impede research activities.

On the contrary, expanding the scope of the exception, or making it mandatory, would risk undermining existing licensing markets and reducing remuneration for creators, without providing a demonstrable benefit.

Where research organisations require access to protected content, collective licensing mechanisms, including extended collective licensing, provide an effective and balanced solution, which can be explored as a more viable solution at EU level. They ensure access while preserving the principle of remuneration.

GESAC therefore considers that the EC should refrain from proposing new legislative provisions that would extend the scope of the existing exceptions or introduce new exceptions relating to scientific research and should instead encourage the development of licensing-based solutions, ideally through CMOs, wherever possible.

Conclusion

The Call for Evidence confirms that the European copyright framework is facing structural challenges, especially when it comes to the use of protected works by GenAI services and the coercive buy-out contracts that can no longer be addressed through incremental or non-binding measures.

In the field of GenAI, the large-scale use of protected works without authorisation, combined with a lack of transparency, the absence of a functioning licensing market and increasing substitution effects, have rendered copyright unenforceable in practice. Restoring legal certainty, enabling licensing and ensuring remuneration for creators requires a dedicated and enforceable legislative framework.

In parallel, the persistence of buy-out practices demonstrates that existing EU rules on contractual fairness and remuneration are being systematically circumvented. The risks of coercive buy-outs, if not addressed, will increase with the use of AI tools by the same production companies and the GenAI services in the market that impose total transfer of authors' rights and other assets also for AI purposes through their contracts or terms of use respectively.[8] The extensive evidence gathered through EC and EP work shows that this issue is mature and requires targeted legislative action, including with respect to Private International Law.

By contrast, the current framework for the scientific research exception is adequate and does not require further extension. Any expansion, in particular if made mandatory, would risk undermining licensing markets and reducing creators' remuneration. Collective licensing solutions, including extended collective licensing, provide a more balanced and effective approach and should be prioritised.

[8] See here on Netflix' contracts with voice actors requiring the use of their voice for AI training; See here YouTube arguing that its terms of service allow it to train its AI models with the works of creators uploaded on its platform.

Taken together, these elements point clearly to the need for a coherent, focused, rights-based legislative initiative that restores the balance of the copyright system, ensures its enforceability and safeguards the sustainability of Europe’s creative sectors in the digital environment.

GESAC stands ready to engage constructively in the preparation of such an initiative.