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Collective Management: Bridging Copyright History and the AI Future

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A. Introduction

Collective management organizations (CMOs) are uniquely equipped to help creators, publishers, and other rightsholders monetize their rights. In the fast-growing field of AI, the exact scope of copyright is still being defined as courts and legislators grapple with how copyright applies to the use of copyrighted material in training, prompting, and generating AI outputs. For the foreseeable future, courts around the world are likely to issue conflicting rulings, and a number of legislators have taken different directions. But one thing is certain: generative AI is here to stay. It is already in use across industries and creative sectors, and is transforming how we work, learn, and create daily.

The time for rightsholders to explore new licensing opportunities and for CMOs to expand their mandates is now. This will ensure they are ready to act as the legal frameworks evolve. Together with direct licensing, CMOs have an important and urgent role to play in the AI era. CMOs can protect and monetize rightsholders' rights, provide certainty amid evolving laws and court rulings, enable appropriate uses, and help shape both the legal landscape and the market in ways that benefit rightsholders, users, and the public interest. Acting decisively today ensures that innovators can continue to build and that rightsholders are active participants in a rapidly changing global creative economy.

B. Background

In the text publishing industry and related creative sectors, such as music, film, television, and fine art, rightsholders and their distributors depend on two essential pillars: inspiration and systems that ensure fair payment and protection of their rights. One key mechanism serving these purposes is "collective management." While the term may sound technical or complicated, the concept is simple and deeply practical. Collective management allows rightsholders to benefit from the use of their works while making it possible for users to obtain licenses efficiently. CMOs emerged as a pragmatic response to the growing complexity of copyright law and technologies that make the use, reproduction, and distribution of creative material easy and often instantaneous. Without CMOs, each use of a song, film clip, article, or photograph would require direct negotiation with every rightsholder, an almost impossible task in many situations given the scale of modern creative markets. CMOs make this feasible by pooling rights and managing them collectively. They collect royalties, monitor uses, and distribute income to rightsholders according to established rules. This eases the burden on copyright owners and users.

Consider a radio station that broadcasts hundreds of songs daily or a music streaming service that makes millions of recorded songs available to millions of users. Each song and recording may be protected by the rights of multiple artists, producers, songwriters, composers, publishers, lyricists, and labels. Similarly, consider the vast number of copyrighted materials used daily by businesses. Employees around the world may access journals, newspapers, research articles, and other protected material as part of their daily tasks - ranging from market research and legal analysis to internal reports and training, and these uses often involve making reproductions,

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including when used to prompt an AI system. Many of these works will be owned by different authors and publishers across multiple countries. And imagine the number of derivative materials being generated every minute by users of generative AI platforms. Each output may draw (consciously or subconsciously) on the creations of countless authors, artists, composers, publishers, and other rightsholders. Managing permissions for each individual work from each individual rightsholder for each individual user – depending on the scope of training material used by the AI system - in these contexts could be unwieldy, yet access to this content is critical for the efficient operation of today’s creative and business activities. CMOs are uniquely positioned to solve these challenges. By enabling rightsholders to monetize their rights efficiently, CMOs ensure that the benefits of rapidly evolving technologies - like generative AI - are shared fairly, while supporting continued innovation.

The modern concept of collective management originated in the 19th century, when rightsholders recognized the difficulty of managing individual rights independently in certain circumstances. Early CMOs were primarily formed in the music industry, where public performances required a streamlined licensing approach. These organizations served as intermediaries, ensuring rightsholders were fairly compensated without placing undue burdens on users. Over time, collective management expanded into text and literature, audiovisual works, and other creative sectors.

This paper considers the structural challenges of copyright in the age of AI, and how voluntary collective licensing can offer a practical, balanced, and future-oriented solution. The central question is: how can we design a copyright licensing framework that continues to incentivize and reward rightsholders, is workable for new uses, and flexible enough to support innovation?

C. The Market for the Exchange of Copyright Protected Works is Complex

Collective management has grown in creative industries, mainly because copyright markets are inherently complex. This complexity arises from a mix of economic factors and layered national and international legal frameworks that govern how copyrights can be used. For rightsholders and users alike, navigating these markets and managing these rights on their own is often challenging, time-consuming, or even impossible in many cases.

From an economic standpoint, copyright protected works can be produced at a high fixed cost (i.e., are expensive to create) but reproduced at low to zero marginal cost (i.e., cheap or even free to reproduce). They are non-excludable, which means that once a work is published, it is often accessible to everyone and the creator cannot, practically speaking, prevent others from using it too.¹ In fact, most rightsholders *want* their material to be used. And they are also non-rivalrous, meaning that, unlike with a physical object like a car for example, use by one individual does not limit use by others.

¹ Marcel Boyer, *The Revision of the Canadian Copyright Act: An Economic Analysis*, p. 10 (2020), available at <https://www3.cirano.qc.ca/files/publications/2020s-68.pdf>.

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Individual creators produce many works that can be widely disseminated by various intermediaries, including publishers and distributors, some of whom may own or administer discrete rights. High transaction costs, layered ownership, and cross-border distribution can further complicate licensing efforts, even when both rightsholders and users are willing to negotiate.

From a legal point of view, copyright can involve a web of intricate legal rights and overlapping interests amongst rightsholders, businesses, and users. This includes the territorial nature of copyright (where different laws apply in different countries) and its inherent divisibility (in which separate rights can be owned or exploited independently and in different territories). Managing these rights often requires coordination among multiple stakeholders, including authors, publishers, producers, and heirs, many of whom may be in different jurisdictions with differing legal frameworks. Negotiating, licensing, and enforcing agreements across this landscape is often time-consuming, legally challenging, and expensive.

These challenges intensify at scale, whether through mass reproduction of a given work or reproduction and dissemination of large volumes of different works. For example:

- Large-scale copying of excerpts from books, journals, or articles for classroom use by hundreds or thousands of students;
- Reproduction and distribution of articles, reports, or research throughout organizations;
- Reproduction and simultaneous communication of music across multiple platforms and territories;
- Public performance of recorded music in restaurants, gyms, stores, and performance halls;
- Digital learning platforms or course management systems that upload and share extensive volumes of protected works with classes of students; and
- Cloud-based storage and collaboration tools that facilitate the reproduction and distribution of documents, images, and audiovisual works across businesses.

In these cases, the cost for an individual rightsholder to negotiate directly with each potential user may vastly exceed the value of the license itself. The time, money, and administrative burden associated with direct transactions reduces the actual returns to rightsholders and discourages users who find the process prohibitively slow or complex. Although these are classic “willing buyer/willing seller” situations, the structure of the market itself prevents an efficient connection between the two sides. The result is that otherwise willing buyers and sellers are unable or unwilling to transact, even when the underlying use would be mutually beneficial.

Two outcomes typically follow. Either legitimate uses are abandoned entirely, leading to underutilization of works and lost revenues, or uses occur without permission and appropriate compensation to rightsholders. As Ronald Coase explained in his theorem,² transaction costs can significantly influence the allocation of rights because they can alter the de facto allocation of rights. This means that if licensing is difficult or prohibitively expensive or cumbersome, then it

² Ronald H. Coase, *The Problem of Social Cost*, 3 J.L. & Econ. 1, 15 (1960).

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is likely that unpaid, tolerated uses will increase. This may seem beneficial to users in the short term, but it is not a viable option for many rightsholders in the long term. Reducing transaction costs does not mean that all desirable licensing transactions will take place, but it significantly increases the likelihood that licensing will occur because it makes it easier for rightsholders to license their rights and for users to obtain the rights required to operate legally.

As noted above, the problem is magnified in today's global and digital environment, where a single work may involve multiple rightsholders across jurisdictions.

The purpose of copyright is, according to the United States Constitution, to promote the progress of Science and useful Arts,³ including works of the arts and intellect,⁴ and literary and artistic works⁵ by granting creators exclusive rights in their works for a limited time. This constitutional framework incentivizes the creation and dissemination of new works in the public interest. As the U.S. Supreme Court has noted:

The immediate effect of our copyright law is to secure a fair return for an 'author's' creative labor. But the ultimate aim is, by this incentive, to stimulate artistic creativity for the general public good.⁶

The challenge, then, is clear: how do we promote the dissemination of works while ensuring that creators remain adequately incentivized to create them, in an economically and legally complex market where rights are fragmented, usage is global and digital, and the costs of negotiating individual licenses may be prohibitively high?

D. Market Solutions are Diverse by Design

No single approach can address all the diverse needs of rightsholders and users in this complex market. Rightsholders differ in the number of their works, the popularity of their catalogues, and the resources available to negotiate licenses. Users range from big companies using millions of works to individual developers and everyday users, each with different goals, capacities, and risk tolerances. As a result, the market has naturally developed a mix of licensing solutions, including direct licensing and voluntary collective licensing, that can, should, and do coexist.

Direct Licensing

Direct licensing remains an essential mechanism in the copyright ecosystem. It gives both rightsholders and users the flexibility to choose exactly what they want to license and on what

³ U.S. Const. art. I, § 8, cl. 8.

⁴ *Théberge v. Galerie d'Art du Petit Champlain inc.*, [2002] 2 S.C.R. 336 (Can.).

⁵ Berne Convention for the Protection of Literary and Artistic Works, art 2, Sept. 9, 1886, as revised July 24, 1971, and amended Sept. 28, 1979, 1161 U.N.T.S. 3; *see also* Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, OJ L 167, 22.6.2001.

⁶ *Twentieth Century Music Corp. v. Aiken*, 422 U.S. 151, 156 (1975).

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terms. It is most effective in “high-value, limited-use” situations: where a work carries significant economic, strategic, substantive or reputational importance, and its use is exclusive and well-defined. Examples include a publishing contract for a novel, a film option agreement, or the placement of a recorded song as a television series theme. In these instances, the value of the transaction justifies the time and effort required to negotiate directly between the rightsholder and the user. Each transaction is significant enough to warrant individual legal attention and simple enough to negotiate on its own.

Voluntary Collective Management

In contrast, voluntary collective management is most effective when direct licensing is impracticable, inefficient, or even impossible. Voluntary collective management means that a creator or other rightsholder has entrusted to a CMO the authority to license rights on his or her behalf. It fills a market gap when the transaction costs of individual licenses cost more than they are worth, helping to sustain a functioning and efficient market for the exchange of copyright-protected works.

This is particularly true when there are many potential users, many works or rightsholders, or uses that generate countless microtransactions (such as reproducing a single chapter of a book or streaming a song) that can happen across millions of users but are too small and fragmented to license or monetize individually.

Similarly, when uses are hard to control because of the type or number of users, platforms, or works involved, voluntary collective licensing offers a practical solution, one that may also assist in protecting users’ privacy and confidentiality. Without collective management, digital platforms, broadcasters, and other users could face huge logistical challenges in obtaining permissions for millions of pieces of content, while rightsholders would struggle to manage and monetize these fragmented uses effectively.

By creating efficiencies and economies of scale, voluntary collective management is an essential component of keeping the copyright ecosystem workable, efficient, and fair. Its main purposes are twofold: to make legal access to creative works easier whenever permission is required and to ensure that rightsholders are fairly compensated. CMOs manage rights on behalf of rightsholders, providing comprehensive licensing agreements to a diverse range of users, including businesses, online streaming services, broadcasters, and educational institutions. This approach reduces transaction costs by eliminating the need for individual negotiations and provides a streamlined method to access vast catalogs of creative works.

Collective management also mitigates legal risks for users who might otherwise unknowingly infringe on copyrights. By centralizing rights clearance, CMOs increase content accessibility, maximize audience reach, and promote cultural exchange. At the same time, they protect rightsholders’ economic interests by ensuring royalties and compensation reflect how their work is used, which incentivizes continued creativity and new works.

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The voluntary collective licensing model is particularly useful when rights are highly fragmented, such as works that combine text, images, and music, or where multiple rightsholders must be cleared for a single use. Collective management addresses these challenges by pooling rights and distributing payments fairly, allowing rightsholders to be compensated while giving innovators lawful access to the content they need.

Importantly, collective management lets users quickly and reliably access vast repertoires, across borders and jurisdictions, helping education, research, creativity, and technological progress advance at the pace society demands. Voluntary collective licensing provides a practical solution, ensuring rights are respected, rightsholders are paid, and large-scale uses can proceed legally.

In terms of the challenges associated with the territorial nature of copyright, collective licensing can operate nationally, regionally (e.g., EU-wide), and through interoperable global frameworks. Coordination between territories is something that CMOs can do efficiently and at scale.

Finally, it is worth emphasizing that, to fulfill their role effectively, collective management organizations must uphold high standards of transparency, professional management, and responsiveness. By clearly explaining how royalties are collected and distributed, minimizing administrative costs through efficient operations, and ensuring equitable treatment of all rightsholders, CMOs can build trust among rightsholders and users alike. Any proposal to expand collective licensing should therefore highlight these best practices as essential features of a modern, reliable system.

Non-Voluntary and Extended Collective Licensing⁷

Non-voluntary collective licensing, such as the case for the retransmission of broadcast signals, is typically reserved where direct or voluntary collective licensing cannot function, or where the law only grants a right to remuneration as opposed to an exclusive right.

Those mandatory schemes are the exception and indeed serve as “exceptions and limitations” under national copyright laws. They are not a substitute for voluntary licensing but serve as a specific backstop to it.

Though they are not licenses proper, CMOs are also occasionally tasked with collecting levies such as those implemented to compensate copyright holders. Recognizing that manufacturers of blank CDs or storage media embedded in phones benefit when their customers copy music or other protected content, some countries have implemented a private copying levy through a mandatory collective licensing scheme. This levy, collected when the product is made or sold, compensates composers, publishers, and record labels for the private copying of their works. It

⁷ There are other forms of collective licensing, such as non-voluntary and extended collective licensing, that are outside the scope of this paper.

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would be impossible for a rightsholder to monitor or license a user's private copying of an entire music catalogue onto a blank CD or cell phone.

Not to be confused with mandatory collective management, *extended* collective licensing (also called the "extended repertoire" system) is a mechanism that builds on voluntary collective management but goes one step further. In this model, once a substantial number of rightsholders in a given category have authorized a CMO to license their works, the law extends the effect of that license to cover the other rightsholders in the same category as well. Crucially, rightsholders usually retain the ability to opt out, which distinguishes extended collective licensing from mandatory collective management.

Exceptions to Copyright

Licensing solutions coexist alongside copyright exceptions. Fair use and fair dealing, for example, ensure that copyright does not extend too far by preserving space for certain legally prescribed purposes when the use is fair. Those exceptions do not always have clear boundaries, however, and a license may remove doubts about the legality of certain uses, benefiting both rightsholders and users, who might otherwise face the prospect of a damages award if a court were to find a use unfair. In practice, the scope of fair use and fair dealing can thus influence the value (or the cost) of a license.

Targeted exceptions for specific uses are also justified in cases where the market cannot efficiently resolve the issue. Under international rules enforceable at the World Trade Organization, such exceptions must be narrowly tailored to special circumstances, ensuring they do not interfere with the normal exploitation of the copyrighted work and do not unreasonably prejudice the legitimate interests of the author or rightsholder.⁸

Some commentators argue that exceptions such as fair use already address new technological uses without the need for licensing. Exceptions are not a substitute for efficient licensing systems. While important, exceptions often leave ambiguity, can be heavily fact-dependent and are thus ill-suited to providing legal certainty at scale. Together, direct licensing, collective management, and copyright exceptions create a balanced framework that sustains an efficient market for copyright-protected works, incentivizes rightsholders, and ensures users have lawful access.

E. Collective Management and the AI Future

Copyright laws have consistently evolved over time in response to technological advances, from the mechanization of copying by the printing press and the player piano to widespread public performances by radio broadcasting and retransmission of broadcast signals, and later the

⁸ Berne Convention, n 5 above, art. 9(2).

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internet.⁹ Collective management, similarly, is an evolving field. As technologies evolve, CMOs face new challenges and opportunities and work to fill gaps in the market for the exchange of copyright-protected works.

The digital revolution has fundamentally altered the way content is distributed and consumed. In the current business environment, users have come to expect immediate access to vast quantities of digital content. To address this, many CMOs have adapted by implementing sophisticated digital licensing models, facilitating widespread legal access while tracking usage to ensure rightsholders receive their rightful compensation.

In today's business environment, collective management is facing another new force: artificial intelligence (AI). AI technologies, particularly generative models like large language models (LLMs), extensively rely on copyrighted works for training, prompting, and producing new content. AI training typically involves reproducing vast datasets of text, images, or music.¹⁰ Then, AI prompting often entails ingesting, reproducing, and summarizing individual works.

This new frontier poses complex legal questions. The question of whether training AI models constitutes copyright infringement remains a critical legal consideration, along with determining appropriate permission mechanisms, compensation, and responsible parties.

Training LLMs involves reproducing and storing works in ways that are embedded and durable, not merely fleeting. These stored representations — whether tokenized strings, embeddings, or dense vectors—can be queried and may reproduce substantial portions of the original work, intentionally or not. In other contexts, courts have long recognized that such acts can trigger copyright liability, but as of October 2025, there were more than 50 pending lawsuits concerning AI training and outputs in the U.S. alone, meaning that the uncertainty about what constitutes infringement in this context is likely to continue to exist for several more years. This uncertainty creates significant risks for rightsholders, users, and AI developers alike.

If and when it comes to a conclusion, the litigation in multiple countries will be important in defining what can be done without a license and what cannot. But it will not be a cure-all. The territorial nature of copyright law makes it inevitable that, when uses cross borders, court decisions will not, thus causing inconsistency. A ruling in one jurisdiction has no binding effect in another, which creates a high risk of conflicting outcomes. Waiting for litigation outcomes is thus not an ideal strategy. Market-based solutions are needed.

In many cases, direct licensing is the best way to handle these challenges and opportunities. Where a large rightsholder holds a valuable and well-known catalogue, it can be efficient and commercially attractive to negotiate directly with large users. For example, OpenAI's deals with Associated Press, Financial Times, Axel Springer, and News Corp¹¹ reflect both the scale and

⁹ Gervais, Daniel J., Shemtov, Noam, Marmanis, Haralambos and Zaller Rowland, Catherine, *The Heart of the Matter: Copyright, AI Training, and LLMs*, 71 J. Copyright Soc'y 482 (2024) (available at SSRN: <https://ssrn.com/abstract=4963711> or <http://dx.doi.org/10.2139/ssrn.4963711>).

¹⁰ See *id.*

¹¹ <https://copyrightalliance.org/ai-copyright-licensing-market-solutions/>.

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importance of those catalogues (making them indispensable for training and use) and the leverage these rightsholders have in securing favorable terms. Some ongoing litigation may also lead to direct licensing deals or settlements, such as the Anthropic \$1.5 billion class action settlement announced in September 2025 for authors and publishers.¹²

But in situations where direct licensing is not practical, voluntary collective licensing for AI offers a clear path forward. For example, an AI developer training on millions of books could obtain a blanket license from a CMO representing authors and publishers. Similarly, a company using AI to summarize journal articles could rely on licenses for uses that go beyond fair use. This would also eliminate, as a practical matter, the uncertainty about the scope of fair use or other exceptions and limitations and provide harmonization across jurisdictions. Indeed, even where rightsholders and users disagree on where that fair use border lies (in those few countries that recognize it), voluntary collective licensing can reduce legal uncertainty by providing lawful access to both training data at scale and to content used to prompt and generate AI outputs. Voluntary collective licensing should not be seen as a stopgap, but as a systemic solution that reconciles the interests of rightsholders, users, and the public.

Given their long-standing role as intermediaries between rightsholders and users, CMOs are well placed to license copyrighted works for AI uses effectively and efficiently. In doing so, they can provide legal certainty to AI developers while ensuring rightsholders are fairly compensated. By streamlining negotiations, voluntary collective licensing reduces the need for individual permissions and helps avoid costly legal disputes. Voluntary collective licensing can also help allocate economic value fairly, ensuring that rightsholders are not involuntarily subsidizing powerful AI models and global tech giants that produce competing outputs.

Indeed, CMOs around the world have recently launched several licensing frameworks specifically for AI systems training and content use.¹³ These initiatives reflect a major effort for

¹² *Bartz v. Anthropic, PBC*, No. 3:24-cv-05417-WHA (N.D. Cal. filed Aug. 19, 2024).

¹³ The UK's Copyright Licensing Agency (CLA), along with Publishers' Licensing Services (PLS) and the Authors' Licensing and Collecting Society (ALCS), has recently launched a Generative AI Training Licence. This licence allows AI developers to legally use text-based published works for training, fine-tuning, and retrieval-augmented generation while ensuring rightsholders are compensated fairly, providing a scalable, transparent, and efficient licensing mechanism, particularly to help those who cannot negotiate individual agreements (*see* <https://cla.co.uk/development-of-cla-generative-ai-licence/>). CCC (Copyright Clearance Center) has integrated AI rights into its Annual Copyright Licenses, allowing businesses to use copyrighted works internally for AI applications, such as machine learning, natural language processing, and content summarization (*see* <https://www.copyright.com/blog/ccc-launches-collective-ai-license>). Australia's Copyright Agency has extended its business licences to include news media content in prompts for Generative AI (GAI) tools, allowing its customers to copy and share with colleagues GAI outputs from prompts that include news media content (*see*: <https://www.copyright.com.au/2025/05/extension-to-annual-business-licence-for-news-media-content-in-prompts-for-ai-tools>).

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market-based, voluntary collective licensing solutions to manage the extensive use of copyrighted content in AI, aimed at balancing the needs of rightsholders, users, and AI developers in a rapidly evolving technological landscape.

To navigate this evolving terrain successfully, CMOs must also continue to evolve. They will need enhanced technological capabilities, including advanced rights management systems capable of handling AI's complex licensing demands. Furthermore, CMOs will likely require clearer legal mandates to represent rightsholders specifically for AI-related uses. The challenge is to adapt CMOs' current structures to the specific needs of AI licensing. This may include distinguishing between types of works (text, images, audio, video), adapting databases to track and allocate uses by LLMs, and developing protocols that match the technical realities of embedding and model training. The international landscape of copyright law is fragmented, meaning the rules for collective licensing of AI may vary considerably from country to country.

CMOs, which have historically played a vital role in connecting rightsholders and users, are well-positioned to play an important role in an AI-driven future. By extending their traditional licensing expertise into the realm of AI, CMOs can continue ensuring rightsholders are fairly rewarded, and that innovative uses of their work remain accessible and legally clear.

As AI reshapes the creative landscape, voluntary collective management emerges as a pragmatic, equitable, and effective solution when the design of such systems ensures accountability and transparency, so that rightsholders trust the process and users see real value in participation. Together with direct licensing, these solutions create a balanced marketplace that supports rightsholders' rights, facilitates users' access, and adapts to the fast pace of technology and the demands of the digital age.