

**Comments on DPIIT Working Paper on Generative Artificial
Intelligence and Copyright (Part I)**

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Executive Summary

CUTS International welcomes the Department for Promotion of Industry and Internal Trade (DPIIT)'s Working Paper on Generative Artificial Intelligence and Copyright (Part I) as a timely and substantive intervention in a rapidly evolving technological, economic, and legal landscape. The Working Paper correctly recognises that generative AI is no longer peripheral to innovation but is increasingly embedded across production processes, service delivery, market organisation, and everyday economic activity. CUTS supports the objective of balancing innovation with the protection of human creativity, while emphasising that such balance must be grounded in legal coherence, economic proportionality, sound principles of market functioning and behavioural responses, institutional feasibility, and distributional equity, while avoiding regulatory approaches that risk overreach or unintended market distortions.

A central theme of this submission relates to policy sequencing and regulatory methodology. While the Working Paper appropriately refrains from conclusively determining whether AI training constitutes copyright infringement or falls within fair dealing, it nonetheless proposes a comprehensive statutory licensing and remuneration framework in response to anticipated litigation risks and legal uncertainty. CUTS recognises that reliance on judicial clarification alone may involve significant time, cost, and uncertainty for creators and AI developers alike. At the same time, prematurely hardwiring regulatory architecture risks foreclosing market-based, technologically tested solutions that could deliver clarity with greater flexibility. From this perspective, CUTS emphasises the importance of ex ante regulatory clarity through improved disclosures, standardised contractual frameworks, and effective dispute resolution mechanisms, such as specialised arbitration or mediation, rather than over-reliance on prolonged litigation.

The submission also engages with the assumption that copying involved in AI training is inherently problematic from a copyright perspective. CUTS notes that the Working Paper itself acknowledges the complexity of distinguishing between expressive, market-substituting uses and non-expressive, transformative, or statistical uses, including through its discussion of text and data mining (TDM) exceptions. In practice, such distinctions are often context-specific and difficult to apply uniformly across technologies, datasets, and use cases. Overly categorical approaches risk legal uncertainty and inconsistent enforcement. This reinforces the case for pragmatic frameworks that minimise case-by-case adjudication while enabling consensual arrangements under transparent and predictable conditions.

With respect to the proposed “One Nation, One License, One Payment” model, CUTS raises concerns from a competition and market-design perspective. Regulatory frameworks should avoid treating content creators and content users as mutually exclusive or structurally opposed groups. In reality, these roles frequently overlap, creators increasingly use AI tools, while AI developers may themselves hold copyrights in other contexts. Bargaining power is similarly situational. In some cases, large rights holders may possess significant leverage, while in others, smaller AI developers may face asymmetric conditions when accessing essential datasets. Excessive regulatory sympathy towards any single group risks distorting market incentives and weakening long-term efficiency.

Accordingly, CUTS emphasises that the primary role of regulation should be to facilitate efficient transactions for the use of content against consideration, rather than to predetermine outcomes such as prices or compensation models. Key impediments to such transactions often arise from information asymmetry, lack of consensus on terms, and enforcement uncertainty. Addressing these challenges may justify regulatory focus on disclosure requirements, clarity around scope of use, attribution, duration, downstream reuse, and standardised contractual terms, supported by technology-enabled monitoring and enforcement tools. Compensation, whether monetary, revenue-linked, reputational, or otherwise should remain a matter of mutual agreement between parties, guided by market signals rather than regulatory fiat.

Concerns regarding remuneration linked to global revenues also warrant careful calibration. While AI-enabled value creation is often indirect and complementary, there may be cases where AI applications generate primary or standalone revenue streams. Regulatory approaches should therefore avoid blunt instruments and allow pricing to reflect the specific economic context of use.

CUTS further notes that the effectiveness of collective management mechanisms should be assessed primarily through the lens of market functioning rather than distributive outcomes alone. The critical question is whether sufficient conditions exist for multiple buyers and sellers to participate meaningfully, enabling prices and terms to reflect demand and supply. Where fair market prices are offered and a rights holder chooses not to license, such decisions should be respected. The role of the State is not to substitute market choices, but to ensure that markets function competitively, transparently, and with low barriers to participation.

From an institutional standpoint, the proposed creation of the Copyright Royalties Collective for AI Training (CRCAT) represents a significant expansion of regulatory infrastructure. CUTS cautions against hardwiring specific models into statute in a fast-evolving technological environment. Instead, regulatory design should be informed by ex-ante Regulatory Impact Assessments (RIA), complemented by periodic ex post reviews. Rather than sandboxing a single preferred solution, policymakers may consider testing a range of regulatory and non-regulatory approaches that allow stakeholders to experiment with alternative models and adapt based on observed outcomes.

In light of these considerations, CUTS advocates a more adaptive and proportionate approach, one that prioritises well-functioning markets, reduces transaction costs, improves disclosures, strengthens technology-enabled enforcement and dispute resolution beyond traditional courts, and ensures that sufficient buyers and sellers exist on both sides of the market. Such an approach is more likely to support innovation, competition, consumer welfare, and inclusive growth, while maintaining respect for copyright and contractual freedom in India's evolving AI ecosystem.

1. Introduction and Institutional Context

These comments are submitted by CUTS International¹, a global public policy research and advocacy organisation working at the intersection of competition policy, digital governance, consumer protection, innovation, and inclusive development. Over the past three decades, CUTS has engaged extensively with governments, regulators, industry, civil society, and international institutions on issues relating to market power, technology governance, access, and fairness; particularly in developing and emerging economies.

CUTS' work on digital markets, platform governance, artificial intelligence (AI), MSME competitiveness, and consumer welfare places it at a unique vantage point in the present consultation. Our engagement spans research, capacity building, stakeholder consultations, and policy advisory across India and internationally. From this perspective, we welcome the Department for Promotion of Industry and Internal Trade (DPIIT)'s Working Paper on Generative AI and Copyright (Part I)² as a timely and important attempt to provide structure and predictability in a rapidly evolving technological and economic landscape.

The Working Paper reflects an awareness that AI is no longer peripheral to innovation but is increasingly embedded in production, services, market organisation, and everyday economic activity. CUTS supports the objective of balancing innovation with the protection of human creativity. At the same time, we believe that the design of such a framework must be grounded in legal coherence, economic proportionality, sound principles of market functioning and behavioural responses, institutional feasibility, and distributional fairness, while avoiding regulatory approaches that may inadvertently stifle innovation or impose disproportionate compliance burdens.

2. Policy Sequencing and Legal Methodology

A central concern from a rule-of-law and governance perspective relates to the sequencing adopted in the Working Paper. While the paper explicitly refrains from conclusively determining whether AI training constitutes infringement or whether fair dealing applies, it nonetheless proposes a far-reaching statutory licensing and remuneration regime.

Drawing on CUTS' long-standing work on regulatory design³, we caution against approaches that hardwire specific regulatory solutions before alternative, market-based and technologically tested mechanisms have been adequately explored. Copyright law has historically evolved through a

¹ <https://cuts-international.org/>

² <https://www.dpiit.gov.in/static/uploads/2025/12/ff266bbeed10c48e3479c941484f3525.pdf>

³ <https://cuts-international.org/pdf/insertpw4-04.pdf#:~:text=In%20collaboration%20with%20the%20Planning%20Commission%20of,academia%20and%20media%20participated%20in%20the%20seminar.>

combination of judicial interpretation, market practice, and technological adaptation in response to new modes of creation and use.

Introducing a blanket statutory licence at an early stage risks substituting flexible, market-led arrangements and adaptive dispute resolution mechanisms with prescriptive regulatory outcomes. Rather than complementing legal and economic reasoning, such an approach may limit the scope for experimentation with contractual models, standardised licensing frameworks, and technology-enabled compliance tools that could provide clarity and certainty without foreclosing future doctrinal development.

While statutory intervention may offer short-term certainty, CUTS cautions that prematurely locking in regulatory architecture, without sufficient evidence from market behaviour and technological implementation, may undermine the long-term coherence, adaptability, and effectiveness of the copyright system in responding to evolving AI use cases.

3. Understanding AI Training and the Nature of Use

The Working Paper proceeds on the premise that copying involved in AI training raises inherent copyright concerns. CUTS recognises that global legal and policy debates increasingly differentiate between expressive, market-substituting uses of copyrighted works and the non-consumptive, statistical learning processes involved in AI training. At the same time, caution is warranted in drawing overly sharp categorical distinctions, particularly given broader concerns around the incremental expansion and “evergreening” of intellectual property rights, where even minor modifications or derivative uses may attract extended protection and inadvertently impede innovation.

From a policy design perspective, CUTS has consistently emphasised that regulatory frameworks should focus less on abstract classifications of use and more on ensuring well-functioning markets for licensed content. In practice, most content creators are likely to license their works for AI training when presented with transparent, reasonably priced, and predictable licensing terms. While limited instances of strategic hold-out behaviour may exist, these should not drive system-wide regulatory design.

Equally important is the establishment of clear disclosure requirements around licensing terms, permissible uses, compensation structures, and attribution or credit, enabling creators to compare options and make informed choices. Such transparency supports behavioural decision-making by creators and reduces information asymmetries that can otherwise distort bargaining outcomes.

While it may be argued that certain forms of AI training should fall outside the scope of copyright protection altogether, determining such boundaries, particularly in the context of evolving AI technologies, may require prolonged legal interpretation and litigation, outcomes that many creators and AI developers may prefer to avoid. In this context, low-friction, low-cost licensing mechanisms for inconsequential or non-substitutive uses may offer a pragmatic solution that provides legal certainty, supports innovation, and ensures creators are compensated without imposing disproportionate regulatory burdens.

Accordingly, CUTS cautions against approaches that treat all AI training as equivalent to conventional acts of copying, while also recognising the practical advantages of market-based licensing solutions that minimise disputes, reduce transaction costs, and align incentives for both AI developers and copyright holders.

4. Assessment of the Proposed “One Nation, One License, One Payment” Model

4.1 One-size-fits-all risks

From a competition and market-structure perspective, the proposed mandatory blanket licence risks imposing uniform obligations across highly heterogeneous actors. Foundation model developers, application-layer innovators, sector-specific AI systems, and enterprise users operate at vastly different scales and with differing capacities to absorb regulatory costs.

CUTS’ research on market concentration and entry barriers suggests that uniform, administratively complex regimes often advantage large incumbents while raising compliance thresholds for smaller and newer entrants⁴.

4.2 Revenue-based remuneration and economic proportionality

The proposal to link royalties to global gross revenue generated by AI systems raises concerns of attribution and proportionality. AI-driven value creation is often indirect and complementary, enhancing productivity rather than generating standalone revenues.

A revenue-share model risks functioning as a blunt economic instrument that may distort incentives, discourage experimentation, and impose costs that are poorly aligned with actual use of copyrighted material.

5. Creators, Intermediaries, and Distributional Equity

CUTS has long engaged with questions of how regulatory frameworks affect end beneficiaries, particularly consumers, small producers, and individual creators⁵. While the Working Paper aims to protect human creativity, its reliance on collective management structures raises important questions regarding how value is transmitted from users of content to ultimate rights holders.

Experience across copyright sectors suggests that the effectiveness of collective mechanisms should be assessed not solely on distributional outcomes, but on whether underlying markets for content licensing are functioning appropriately. Revenues collected through intermediaries do not always translate into meaningful income for individual authors and creators, particularly those outside organised or high-value segments. However, the central concern is less about mandating

⁴ https://cuts-ccier.org/wp-content/uploads/2019/01/Dimensions_of_Competition_Policy_and_Law_in_Emerging_Economies.pdf

⁵ <https://cuts-international.org/PDF/better-standards-and-regulations.pdf>

equitable outcomes and more about ensuring that market conditions exist for creators and users to engage in informed, voluntary, and enforceable transactions.

In this context, transparency and accountability should be understood as mechanisms that enable effective choice rather than as redistributive tools. This includes clear disclosure of licensing terms, scope of permitted uses, duration, attribution or credit requirements, compensation structures, and downstream reuse conditions. Such disclosures reduce information asymmetry, facilitate consensus ad idem between parties, and allow creators to compare offers across users or platforms.

Author-centric safeguards, similarly, need not imply regulatory determination of compensation levels. Instead, they should focus on ensuring enforceability of agreed terms, access to efficient dispute resolution mechanisms beyond traditional courts, and the ability for alternative buyers or intermediaries to offer competing terms where demand exists. Where creators choose not to license despite fair market offers, that decision should be respected as an exercise of contractual freedom.

Without these enabling conditions, transparent terms, low transaction costs, effective enforcement, and credible dispute resolution, collective structures risk becoming administratively complex intermediaries that reinforce existing asymmetries rather than facilitating efficient and contestable markets for content use in AI training.

6. Institutional Capacity and Governance Feasibility

The proposed creation of the Copyright Royalties Collective for AI Training (CRCAT), supported by multiple CMOs and a government-appointed rate-setting committee, represents a significant expansion of regulatory infrastructure.

CUTS' work on regulatory institutions highlights that effectiveness depends not only on statutory design but also on administrative capacity, trust, and enforcement credibility. India's experience with intellectual property administration and collective rights management has been mixed. A complex, economy-wide AI royalty regime may face implementation challenges that could undermine its objectives.

7. Interaction with Broader Digital and Competition Policy Frameworks

AI governance does not operate in isolation. CUTS has consistently argued for policy coherence across data protection, competition law, consumer protection, and digital market regulation.

The Working Paper's proposals will intersect with emerging frameworks on data governance, platform accountability, and competition in digital markets. Without careful coordination, overlapping obligations may increase regulatory uncertainty and compliance burdens, potentially affecting innovation and consumer welfare.

8. Towards a Balanced and Adaptive Approach

In light of the above, CUTS suggests consideration of a more adaptive and proportionate regulatory approach, one that prioritises well-functioning markets, reduces transaction costs, and remains responsive to technological and economic evolution, rather than hardwiring specific outcomes or institutional models at an early stage.

Key elements of such an approach could include:

- **Evidence-based regulatory design and impact assessment:** Any proposed intervention should be informed by ex-ante Regulatory Impact Assessments (RIA) that evaluate likely effects on innovation, competition, creators' incentives, market entry, and compliance costs. These assessments should be complemented by periodic ex post reviews to ensure continued relevance as AI technologies, business models, and content markets evolve.
- **Clarity through disclosure, standardisation, and informed consent:** Regulatory focus should be placed on improving disclosures around licensing terms, scope of use, attribution or credit, duration, downstream reuse, and compensation structures. Standardised templates or model contracts can reduce information asymmetry, facilitate consensus ad idem, and enable creators and users to make informed, voluntary choices without mandating uniform outcomes.
- **Market-based arrangements supported by technology-enabled enforcement:** Rather than relying predominantly on prescriptive statutory licences, policymakers may encourage market-led licensing arrangements supported by technological tools for tracking usage, monitoring compliance, and enforcing agreed terms. Such approaches can lower transaction costs while preserving contractual flexibility.
- **Effective and accessible dispute resolution mechanisms:** Given the limitations of traditional litigation in addressing fast-moving technological disputes, emphasis should be placed on alternative dispute resolution mechanisms such as specialised arbitration or mediation frameworks. These can provide timely, predictable, and lower-cost resolution of disputes between content creators and AI developers.
- **Competition-consistent safeguards without distortion of price signals:** Regulatory design should ensure that sufficient buyers and sellers exist on both sides of the market, enabling prices and terms to reflect demand and supply. Obligations should not be differentiated solely on size or scale, but calibrated to address demonstrable market failures or competition concerns, without distorting fair market valuation of content.
- **Adaptive governance and policy learning:** Rather than sandboxing a single regulatory model, policymakers may consider experimentation with multiple regulatory and non-regulatory approaches, allowing stakeholders to test varied arrangements. Insights from such experimentation should feed into iterative policy refinement, ensuring that regulation remains adaptive rather than static.

Such a framework is more likely to balance innovation with protection of creative interests, enhance legal certainty without excessive rigidity, and support India's broader objectives of innovation, competition, consumer welfare, and inclusive growth.

9. Role of CUTS International in the Evolving AI–Copyright Policy Framework

CUTS International views its role in the evolving discourse on generative AI and copyright as that of a constructive policy interlocutor, evidence-based advocate, and bridge between diverse stakeholder interests. Drawing on over three decades of work in competition policy, consumer protection, digital governance, and market regulation, particularly in developing and emerging economies, CUTS is well placed to contribute to balanced, forward-looking, and inclusive policy design.

In the context of AI and copyright, CUTS’ engagement extends beyond doctrinal legal questions to encompass broader economic, competition, consumer welfare, and institutional considerations. CUTS seeks to support policymaking that recognises the transformative nature of AI technologies while remaining attentive to risks of market concentration, regulatory overreach, and unintended distributional consequences for creators, MSMEs, startups, and consumers.

Specifically, CUTS can play the following roles going forward:

- **Policy research and analysis:** Undertaking empirical and comparative research, including Regulatory Impact Assessments (RIA) and cost–benefit analysis, to evaluate the economic impacts of AI training regulations, licensing models, and remuneration mechanisms, including their effects on innovation, market entry, competition, and creative livelihoods.
- **Stakeholder consultations and dialogue:** Convening structured dialogues among creators, technology developers, MSMEs, consumer groups, legal experts, and policymakers to surface diverse perspectives, test assumptions, and reduce information asymmetries in policy formulation.
- **Capacity building and awareness:** Supporting capacity-building initiatives for creators, MSMEs, and consumer groups to improve understanding of AI technologies, copyright implications, licensing choices, and compliance requirements in a rapidly evolving regulatory environment.
- **Advisory support and policy feedback:** Providing iterative, evidence-based inputs to government departments and regulators as the legal and policy framework on AI and copyright evolves, including through periodic review mechanisms, impact assessments, and implementation feedback loops.
- **Promoting policy coherence, market monitoring, and grievance redress:** Contributing to alignment between copyright policy and related frameworks in competition law, data governance, consumer protection, and digital market regulation, while supporting market monitoring, early identification of distortions or enforcement gaps, and effective grievance redress mechanisms to reduce regulatory fragmentation and uncertainty.

Through these engagements, CUTS aims to assist in the development of an AI–copyright framework that is legally sound, economically proportionate, institutionally feasible, and socially equitable. CUTS remains committed to working collaboratively with DPIIT and other stakeholders

to ensure that India's approach to generative AI governance supports innovation, protects legitimate creative interests, and advances long-term consumer welfare and inclusive growth.

10. Conclusion

The DPIIT Working Paper represents a significant and commendable step towards addressing the complex and evolving relationship between generative artificial intelligence and copyright. It reflects an awareness of both the economic importance of AI-driven innovation and the legitimate need to protect human creativity in an increasingly data- and algorithm-driven economy

From CUTS International's perspective, the central policy challenge lies not merely in striking a balance between innovation and rights protection, but in ensuring that regulatory interventions are legally sound, economically proportionate, institutionally feasible, and socially equitable. Premature or overly uniform solutions risk entrenching market power, increasing compliance burdens for smaller innovators, and delivering uncertain benefits to creators, while potentially constraining India's broader digital and innovation ecosystem.

A durable and effective framework should therefore remain open to doctrinal evolution, recognise the distinctive and non-expressive nature of AI training, and adopt differentiated regulatory approaches that reflect variations in scale, market position, and economic impact. Where remuneration mechanisms are considered, they should be carefully designed to ensure transparency, accountability, and meaningful outcomes for individual creators, rather than relying solely on complex collective structures.

CUTS remains committed to supporting DPIIT and other stakeholders through research, stakeholder engagement, capacity building, and evidence-based policy dialogue as India's approach to generative AI governance continues to evolve. A flexible, adaptive, and coordinated policy framework will be critical to ensuring that India harnesses the benefits of AI while safeguarding competition, consumer welfare, and inclusive economic growth in the long term.

This submission has been prepared by CUTS International (Consumer Unity & Trust Society)

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