Tāwhia Copyright Aotearoa

Copyright and Artificial Intelligence

A Policy Commitment

The creative sector contributes 4.2% of New Zealand GDP --$17.5 billion a year. Copyright supplies the work on which AI depends.

Generative AI developers take Copyright work offshore, without permission, provenance, or payment. AI models cannot be 'untrained', so every delay makes that transfer of value permanent.

AI developers pay for the electricity, the chips, and the engineers that power their services. Copyright work is no less an input. And its supply is not free.

We ask Government to emphatically commit to retaining its creative sector - protecting, and enforcing New Zealanders' Copyright investments through Credit, Control, and Compensation.

This Paper presents Policy Commitments and Legislative Recommendations to secure the Copyright pipeline - on which the growth of New Zealand's creative and AI markets mutually depends.

Highlights

NEW ZEALANDERS DO NOT TRUST AI – AND HAVE SAID SO

Only 34% trust AI. **81%** say regulation is required. Just **23%** think current safeguards are enough.[1]

- NZ ranks **third-to-last of 47 nations** for public trust in AI.[2]
- Of 10,000 creators surveyed **86%** of authors report reduced earnings, **57%** say their careers are no longer sustainable, **99%** say their work was scraped without consent or payment.[3]

AT STAKE

The creative and cultural sector supports **118,000 jobs across 37,504 businesses,** and 4.2% of NZ GDP.[4]

- They are mostly **small businesses**, for whom the cost and time of High Court litigation is out of the question. 98.1% are SMEs, with a **30.3% self-employment rate -** double that of the wider economy.[5]

THE HARM IS PERMANENT – AND THE WINDOW IS CLOSING

Unlike most commercial harms, this one cannot be reversed. AI models cannot be untrained.

- **Australia** will legislate early next year, promising artists "…control of the price and value of their work".[6] **The UK** has abandoned a broad TDM exception,[7] promising transparency, enforcement, and remuneration.[8] **The EU Parliament** has regulated for transparency,[9] and resolved to strengthen licensing frameworks.[10]
- **US States** are legislating for transparency and protection.[11] The **US Copyright Office** rejects the claim that all AI training is fair use.[12] A **US court** has approved the largest copyright settlement in history – **$1.6 billion** in compensation for pirating copyright works to train AI.[13]
- **Our close trading partners all moved on policy in 2026.**[14] For as long as NZ does not, silence will be read as permission. Delay does not preserve options for NZ – it forecloses them.

WHAT WE ASK

- **Policy Statements and Commitments.** Copyright law will not be weakened for AI. Permission and 'licensing-first' is the expectation and default position. AI developers and deployers pay for energy, chips, and engineers – **human-authored work is no less an input – and is not free.**
- **Legislate for transparency.** Credit, Control and Compensation are unenforceable without it. We cannot enforce what we cannot see.
- **Enact strong, cost-effective enforcement and remedies.** NZ has no small claims forum for copyright infringement; no website blocking or take-down regime; no statutory damages; no class action statutes. No practical remedies for a sector that is 98.1% small businesses. No answer to AI's widespread copyright violations undermining the viability of both sectors.
- **Protect Māori data sovereignty and taonga works.** Australia and Canada have done so.[15] The Māori arts and creative sector alone enables 11,129 jobs and 3,433 businesses.[16]

AN OPPORTUNITY ALREADY THERE

A Copyright licensing market already exists

- **Collective licences** are enabling AI products and services to be deployed at scale, without questions over economic theft, market harm, and legal liability. **UK publisher licences** are set to double in 2026.[17] And **new digital infrastructure** is supporting Credit, Control, and Compensation, and making them easier to implement.

These are being deployed in the UK, US, Australia, EU, and Japan. NZ needs to become a compliant exporter of Intellectual Property – and a destination to invest in it.

Policy Aims: Pro Copyright and Pro AI

Aligning public policy on Copyright and AI produces a win-win-win: for creators, for technology innovation, and for society. It will:

- protect and grow the **economic frameworks** that incentivise New Zealanders to create and invest in NZ content, culture, creative and technology jobs;
- unlock and supercharge **partnership** (not piracy) between creative *and* tech economies through legal certainty, efficient licensing, effective payment, and fair market incentives-- ensuring coherent distribution of economic incentives across the value chain;
- close NZ's **public trust gap** by restoring confidence through transparency and source provenance; and building trust through consent-based rules, fair value share, accountability and enforcement.

Policy Setting: Responsible AI

The **immediate question** is how soon we are prepared to shape the future, rather than letting the future shape us.

Our Recommendations on Copyright and AI fit within a broader policy setting - by acting, as our closest trading partners have done, to shape a responsible AI future. **We urge the Government to design an updated national AI Plan that is:**

- human-centred;
- ensures AI benefits are shared widely across NZ society;
- upholds the rule of law and safeguards NZ values, through transparency and accountability measures; and
- delivers trust, transparency, safety, and fairness.

The Trust Gap

New Zealand's AI trust gap is measurable--and wide.

- A recent KPMG study showed only 34% of NZers are willing to trust AI; **81% believe regulation is required**; just 23% believe current safeguards are sufficient.[18] KPMG reports that we rank **third-to-last** of 47 nations for public trust in AI.[19] We rank poorly on the Global Index on Responsible AI;[20] and the Government AI Readiness Index.[21]

Trust in AI has not been earned. Generative AI developers have blown past moral and legal rights, have stolen copyright works *en masse*, and rented them back to the public. They have achieved this without acknowledging Credit, Control, or Compensation.

The Privacy Commissioner has noted that "Four out of five New Zealanders did not see current regulation of AI as adequate … there are known regulatory gaps which put New Zealand behind peer nations in AI readiness."[22] More than 1,300 NZers from the arts, media and creative sector, recently signed an open letter to Parliament asking that these gaps be closed.[23]

Economic Growth

We **recommend** the Policy Statement note the economic value to New Zealand from committing to a strengthened **and mutually-beneficial 'Pro-Copyright and Pro-AI future'.** Such a policy would benefit creator livelihoods and small businesses, consumers, AI users, technology developers, and our wider society.

We suggest the Policy Statement recognise that:

- **Strong Copyright underpins strong investment**, and therefore growth, in the creative and technology economies. Copyright provides the economic-framework for rewarding investment in creativity and innovation. This produces a strong creative yield.
- **Copyright builds industrial strength and soft power** in sectors of strategic and economic importance. A strong and lawful trade in Copyright has delivered:
  - $17.5 billion to NZ GDP in the year to March 2024 - 4.2% of the economy. Generated by 117,912 jobs, 30.3% of whom are self-employed. That work is done by 37,504 businesses – 5.8% of all NZ enterprises - 98.1% of which are SMEs.[24]
  - **UK's creative industries are its second biggest industrial sector.**[25] They contribute £124.6 billion to the economy, with a workforce almost 30 times larger than the UK AI sector—2.4 million people.[26]
  - The copyright industries in the **United States** add $2 trillion annually to U.S. GDP, account for nearly 8% of the U.S. economy, and employ 11 million people.[27]
- **The AI economy depends on the Copyright economy for growth and success.** AI developers told a House of Lords Committee it is impossible to train today's leading AI models without using copyrighted materials.[28] High-quality curated content will be the key differentiating factor between competing AI models.[29] The credibility and utility of AI platforms depend on a continued pipeline of human-authored professionally-produced work.[30] **Preserving our ability to continue to create and be compensated for new Copyright works is necessary to power innovation in AI.** Both sectors will flourish and grow when they work together.

Māori data sovereignty, mātauranga Māori and taonga works

AI raises questions for Māori that Copyright alone does not answer. Mātauranga Māori, te reo Māori and taonga works may sit outside the Copyright Act, or be held collectively in ways the Act does not readily recognise - yet they are being ingested, reproduced and imitated by AI systems at scale. The Māori arts and creative sector alone account for 11,129 filled jobs and 3,433 businesses.[31]

Australia and Canada have addressed Indigenous data sovereignty and Indigenous cultural and intellectual property directly in their AI policy.[32] NZ should not be the exception.

We **recommend** the Government:

- **engage** directly with Māori, with the Crown's obligations under te Tiriti o Waitangi in view, on the use of mātauranga Māori and taonga works in AI systems;
- **ensure any AI Plan addresses Māori data sovereignty**, including control over the collection, access, use and sharing of Māori data; and
- **co-design transparency** obligations so that iwi, hapū and Māori organisations can identify when mātauranga Māori and taonga works have been used.

Tāwhia does not speak for Māori on these matters and we do not attempt to. We say only that an NZ Copyright and AI policy that is silent on them will be incomplete.

Policy Commitment

We recommend that the Government issue a clear Policy Statement at the earliest opportunity. This would signal to the public, and to our trading partners, that NZ has a 'gold-standard' approach to the relationship between Copyright and AI.

Similar policy announcements made earlier this year in Australia,[33] the UK,[34] and the EU Parliament[35] resulted in emphatic and positive sector and public response.

We **recommend** that a Policy Statement include the following commitments:

- **NZ's gold-standard Copyright regime will provide the strongest possible protection and incentives to create and invest in New Zealand works and innovation.** Strong, enforceable IP attracts investment - including foreign direct investment – enhancing economic growth and soft power. It also boosts our export confidence – NZ based businesses can trade globally, exporting their creative products, services, and innovations knowing that compliance at home meets expectations and laws abroad.
- **Our Copyright Act applies to AI training, AI inputs, and outputs**. Performing restricted acts **without permission** is, by default, unlawful in NZ and most major jurisdictions. Sourcing, sharing or using Copyright works to train or input into AI systems involves restricted acts; as does generating outputs that copy, adapt or distribute parts of those works.
- **NZ will not weaken copyright law for AI.** Any broad exception for AI companies would diminish the incentives to invest in and produce new works.[36] Creators need to rely on Credit, Control, and Compensation to justify their own investment and risk. Broad exceptions deprive them of return on their investment - upending long-established market incentives – and represent a transfer of value from NZ firms to overseas AI developers.[37]
    - **NZ rules out a TDM exception for AI.** Australia and the UK have recently done so, and public consultation revealed the exceptions to be overwhelmingly unpopular – leading to Cabinet reshuffles in the UK. By its own assessment, the EU's TDM provisions (enacted pre-AI) risk distortion; and in the view of the UK **do not deliver reliable control for rightsholders, inhibit the development of a fair market for licensing,**[38] besides **increasing their compliance costs.**[39]
- **'Licensing-first' is a baseline requirement.** All organisations doing business in NZ must adhere to the Copyright Act and obtain a licence on terms aligned with their intended use and commercial exploitation of the work. This applies whenever sourcing, sharing, or using copyrighted works and extracts to train, input into, or produce outputs from AI systems.
    - **AI developers already pay for chips, R & D, data centres and the electricity powering them, and the engineers who build them.** Human-authored work is no less of an essential business input – and is not free. Nor is it unaffordable. The cost of training data is about one percent of total global investment in AI – it does not significantly determine the capital costs, or the cost to the end user.[40]
- **Developing, facilitating, and enforcing voluntary licensing schemes for the AI age.** This rapidly-developing market enables the efficient exchange of rights, permissions, and payments – for the safe and responsible reuse of Copyright works in AI systems. Lawful licensing will:
    - power AI products and services at scale, and across borders, without questions over economic theft, market harm, and legal liability;

- reward and incentivise creative investment by protecting Credit, Control, and Compensation over creators' works – securing the pipeline of new, high-quality, credible, and professionally produced NZ content;
- incentivise other parts of the Copyright and AI supply chain - brokers, curators, technology firms, CMOs - to continue building innovative infrastructure, efficient digital markets, and diverse content exchanges; and
- create market access. The market must be accessible to diverse buyers and sellers of all sizes. Collective management presents the best opportunity for economies of scale that support and include individuals and SMEs.

Stolen work offers none of these advantages.

Legislative Change

Legislation to support comprehensive transparency and enforcement obligations. This is an essential pre-requisite to achieving the Policy Aims and Policy Commitments we have recommended.

Our lack of robust copyright protection and enforcement puts creative and technology sectors at risk. The EU Parliament[41] and the UK House of Lords[42] have both recognised that **widespread violations of copyright to train GAI, and to generate and distribute AI outputs is undermining the economic viability of the creative sector**, and poses an existential risk to society and democracy.

These harms fall hardest on a sector composed largely of individuals (30.3%) and SMEs (98.1%), for whom the delay and costs of seeking High Court redress is not realistic**.** Enforcement remains inaccessible without: collective action, effective transparency measures, and significantly reduced enforcement costs.[43]

We therefore **recommend** that the Government, in addition to supporting collective licensing:

- **Legislate for transparency in AI systems** to a level where rightsholders can identify when their work has been used, negotiate licences, enforce their rights, and be paid. Auditability will improve public trust, and mitigate the illicit trade and market harm that arise when copyright violations remain undisclosed and un-investigated. **Governments, creators, and investors cannot track, monetise, or enforce what they cannot see.**
- **Legislate for the labelling of AI-generated outputs.** This will improve public trust, protect consumers, and support fair markets and competition.
- **Legislate for practical and cost-efficient enforcement mechanisms and remedies** to prevent the unconsented use of protected works to train AI systems, and/or to generate and to distribute AI outputs. Respect for and compliance with Copyright law will underpin and reward strong investment, incentivise lawful trade over illicit markets, build strong licensing marketplaces, reverse market harm, and restore economic equity.

  NZ has no small claims forum for Copyright infringement, no general website-blocking or statutory take-down regime, no statutory damages, and no statutory class-action regime.

  We therefore **recommend** the following:

- **Introducing statutory damages / financial penalties**, as in the U.S. This simplifies litigation, deters infringement, and shifts behaviour away from our current 'risk-worth-taking' approach towards 'compliance-first'. This approach does not require proof of intent, causation, or quantum of loss – in the AI context it is unrealistic to quantify these on an evidential basis, because the volume and weight of the use of a Copyright work inside an AI model cannot be observed.
- **Establishing a small claims procedure,** as in the U.K. or U.S., to enhance the rule of law and address access to justice issues.[44]
- **Introducing an efficient statutory regime for website take-down or blocking**, as in the U.S,[45] which doesn't rely on High Court Proceedings in the first instance, to quickly and efficiently combat stolen datasets and illicit trade dominating the market. An option is to **repurpose, rather than repeal, the infringing file sharing regime –** which already gives the Copyright Tribunal a capped, papers-based, presumption-assisted, costs-limited way to address a narrow type of copyright infringement.[46] This can be redirected toward website take-down and blocking, to combat shadow libraries and pirate sites.
- **Introducing a statutory class action regime** for access to justice and cost-efficiency in litigation, as recommended by the Law Commission in 2022.[47] Unlike many other common law jurisdictions, NZ does not have formal class action legislation. Given the unprecedented scale of copyright violations, and the inaccessibility of litigation by the affected individuals and SMEs, collective redress is necessary in the AI context. It was the combined effect of collective action and statutory damages that brought Anthropic to settlement in *Bartz v Anthropic*[48] – a settlement confined to rightsholders with standing in the U.S. NZ rightsholders need the same recourse. **Transparency** makes the class identifiable; **statutory damages** make the claim quantifiable; **collective action** makes it litigable.

- **Provide procedural rules for the Copyright Tribunal.** Separately from enforcement, the Tribunal's existing licensing jurisdiction is impaired by the absence of procedural rules. As collective licensing becomes central to AI, if the Tribunal is to be of value it must have these rules. A draft supported by the collective management organisations was provided to MBIE in 2019 and 2025, together with commentary by Andrew Brown KC.[49]
- **Establish a Copyright and AI reference group.** Unlike Australia,[50] NZ has no equivalent forum in which the application of the policies described in the Paper can be worked through with rightsholders, developers and users.
- **Address moral rights and human authorship.** We recommend the Government consider the UK proposal that the protection for computer generated works created without a human author[51] be removed from the Copyright Act. Its retention is a fundamental departure from the core rationale for Copyright-- to encourage and reward human creativity.[52]

  The moral right to be identified as author is unenforceable unless asserted in writing,[53] which few NZ creators have done. We recommend the assertion requirement be revisited, so that mass ingestion of works by AI requires moral rights attribution.

Our major trading partners already have or are moving to adopt the above measures.[54]

Notes

1 "Trust, attitudes and use of artificial intelligence: A global study 2025" (The University of Melbourne and KPMG, N Gillespie, S Lockey, T Ward, A Macdade and G Hassed, 2025) - see New Zealand insights, p 1. The same study records that 76% of New Zealanders are concerned about negative outcomes from AI, 75% are unsure online content can be trusted because it may be AI-generated, and 89% want laws and action to combat AI-generated misinformation.

2 KPMG Global Study, ibid, p 28.

3 "Brave New World? Justice for creators in the age of gen AI" (Society of Authors, Association of Illustrators, Independent Society of Musicians, Equity, and the Association of Photographers, January 2026) at p 6.

4 "Arts and Creative Sector Profile 2024" (Infometrics, March 2025). See also Ministry for Culture and Heritage "Amplify—A Creative and Cultural Strategy for New Zealand" (August 2025), p 12.

5 Ibid.

6 "AI in Australia's Interests" (Australia's Prime Minister, Speech and Media Release, 15 July 2026).

7 "UK government abandons AI 'opt-out' plan amid backlash from artists" (Scottish Legal News, 9 May 2025). See also "UK minister admits 'regret' over AI and copyright row" (Politico, 22 May 2025).

8 Baroness Jones of Whitchurch, Policy Commitments on behalf of the Starmer Labour Government, UK Hansard (HL) vol. 846, col. 1424, 11 June 2025. See also "AI, copyright and the creative industries" (Report of the House of Lords Communications and Digital Committee, 6 March 2026), para [39]. The Starmer UK Government released an interim policy paper "Report and Impact Assessment on Copyright and Artificial Intelligence", 18 March 2026. See also n 14 below.

9 EU Artificial Intelligence Act 2024 applies transparency obligations at three layers: training content (Art 53(1)(d)); disclosure and labelling of AI outputs (Art 50); and the model itself (Arts 53(1)(a) and (b)).

10 "Copyright and AI - Opportunities and Challenges", European Parliament Resolution passed 10 March 2026.

11 White & Case LLP maintain a Global Regulatory Tracker, summarising dozens of U.S. State laws regulating AI. For Bill related to Copyright and AI, see n 14 below.

12 "Copyright and Artificial Intelligence, Part 3: Generative AI Training" (U.S. Copyright Office, Pre-publication, May 2025), at pp 74, 107.

13 Official website for settlement information: https://www.anthropiccopyrightsettlement.com/

14 TCA has compiled a compendium of Overseas Regulation and Policy - a copy will be supplied to MBIE. This includes relevant extracts from Australian, UK, US, and EU policies and regulations relating to Copyright and AI.

15 Australia: "National AI Plan" (2025), committing to the Framework for the Governance of Indigenous Data (pp 18-19). Canada: "National Artificial Intelligence Strategy: AI for All" (2026), Pillar 2; and Bill C-34 the Safe Social Media Act, both informed by consultation with Indigenous partners.

16 "Arts and Creative - Māori Sector Profile 2024" (Infometrics, 17 March 2025).

17 "Content Superpower: UK publishing and the AI licensing market" (Publishers Association Report, 2026).

18 Above n 1.

19 Above n 1, p 28.

20 Global Index on Responsible AI (GIRAI), (Global Centre on AI Governance).

21 Government AI Readiness Index 2025, (Oxford Insights).

22 "Going for Growth - Enabling AI uptake across the economy" (Cabinet Paper, accompanying New Zealand's first AI Strategy, proactively released 7 August 2025) - quoting the Privacy Commissioner at para 32.

23 "A call to the NZ Parliament to regulate AI", open letter published and delivered 1 September 2025.

24 Above n 4.

25 Hansard (HL) vol. 846, col. 484, 2 June 2025.

26 Above n 3.

27 "A 'Win-Win-Win' Path for AI" (DC Journal, Keith Kupferschmid, 21 July 2025) citing the IIPA's 2024 report.

28 OpenAI, Written Evidence (LLM0113) to the House of Lords Communications and Digital Committee inquiry into Large Language Models, 5 December 2023.

29 Above n 17.

30 "Copyright and AI Impact Assessment" (Department for Science, Innovation and Technology, and Department for Culture, Media and Sport, 18 March 2026) Presented to Parliament (UK) - paras [136] – [137]. See also para [6].

31 Above n 16.

32 Above n 15.

33 Above n 6.

34 Above n 8.

35 Above n 10.

36 Above, n 30, at [136] – [137].

37 Above, n 30, at [130].

38 "AI, copyright and the creative industries" (Report of the House of Lords Communications and Digital Committee, 6 March 2026), paras [166] – [176].

39 Above, n 30, at [188].

40 Above n 30, at para [78].

41 Above n 10, Paras L to O.

42 Above n 38, Summary p 3. See also the survey results in Brave New World, January 2026, above n 3: of 10,000 creators surveyed 86% of authors report reduced earnings, 57% say their careers are no longer sustainable, 99% say their work was scraped without consent or payment.

43 Above n 30, paras [64] and [185]. Note the UK has a similar sector composition (93% of UK creative businesses are micro firms).

44 "Overseas Copyright Enforcement Mechanisms for Small Claims (UK_US_AUS_NZ)" (Tāwhia, July 2026). See also "CASE Act Report" (U.S. Copyright Office, report for Congress, February 2026) for a positive review of the U.S. small claims board.

45 Digital Millennium Copyright Act s 512 provides a safe harbour and notice-and-takedown system. Overview here by the U.S. Copyright Office.

46 Copyright Act 1994, ss 122A–122U. Repealing rather than updating would leave New Zealand with no forum but the High Court, at a moment that infringement is rising fastest and in a sector that can least afford to litigate. See also Copyright Act 1994, s 211.

47 "Class Actions and Litigation Funding" (NZLC R147, 2022), and Media Release (27 June 2022).

48 Bartz v Anthropic PBC, Case No. 3:24-cv-05417, U.S. Dist. Ct. (N.D. Cal.), decision of 23 June 2025. Exposure to statutory damages of up to USD$150,000 per work of each class representative, drove a settlement of approximately USD$3,000 per work.

49 Based on the UK Copyright Tribunal Rules 2010. The drafter, Andrew Brown KC, commented that "the absence of rules has resulted in uncertainty, delay, and wasted expenditure". These rules could be made by regulation, or adopted by the Tribunal in a Practice Note. The draft is supported by Tāwhia, Recorded Music and APRA AMCOS.

50 Copyright and Artificial Intelligence Reference Group, established by Attorney-General's Department (AU).

51 Copyright Act 1994, ss 5(2)(a) and 22(2) (authorship and duration of computer-generated works). See also s 2 (definition of computer-generated).

52 "Report on Copyright and Artificial Intelligence" (Department for Science, Innovation and Technology, and Department for Culture, Media and Sport, 18 March 2026) (UK), Section A, paras [46]–[47].

53 Copyright Act 1994, s 94(1) (right to be identified) and s 96 (assertion). Note ss 97(2)(b) and 100(2)(b) (moral rights do not apply to computer-generated works).

54 Above n 14.

Tāwhia Copyright Aotearoa

Tāwhia means to hold firmly,
not allowing something to slip away.

Tāwhia Copyright Aotearoa
tawhia.nz

(Formerly Copyright Licensing New Zealand, Est. 1988).
Written by humans. Design assets (colours, fonts, logos) by humans, with layout assisted by AI.