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FIZnews

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FIZ Karlsruhe contributes to EU consultation on copyright, AI and research

Karlsruhe, November 19, 2026 — **Statement calls for legal clarity on AI training, fair participation of creators and a "fifth freedom" for research understood pro scientia**

FIZ Karlsruhe - Leibniz Institute for Information Infrastructure and its research group for Intellectual property rights has submitted a detailed statement to the European Commission's targeted consultation on a potential initiative for a better copyright environment for European creativity and innovation. The consultation, which closed on 10 November 2026, gathered views on copyright and generative AI, online piracy, the use of sound recordings and copyright in research. FIZ Karlsruhe answered the sections on generative AI and on research and supplemented its answers with an additional written statement.

The contribution starts from the observation that research institutions stand on both sides of copyright. They are authors and rightsholders of scholarly works, and they are users who analyse, mine, quote and share protected content, increasingly with the help of AI tools. From this perspective, the statement makes two core demands: the EU's rules on text and data mining need legislative clarification and complementary remuneration mechanisms in the age of generative AI, and the research privileges of EU copyright law must become mandatory, harmonised and protected against contractual and technical override.

Generative AI: clear rules, workable opt-outs, a fair share for creators

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- **Legal clarity through binding rules.** FIZ Karlsruhe supports new binding measures under EU copyright law. How far the text and data mining exceptions reach across the training, inference and output phases of AI systems is unsettled, as recent court decisions show. The statement argues that the legislator, not divergent case law, should settle these questions.
- **Opt-outs that work in practice.** Standardised machine-readable rights reservations, an EU-level registry and record-keeping duties should make the existing framework operational. Verification burdens should fall on commercial AI providers, not on individual researchers who collect data.
- **Beyond exclusive rights.** "AI can erode creators' markets without copying protected expression," the statement notes. It therefore asks the Commission to assess complementary remuneration mechanisms, including a flat-rate scheme comparable to the private copying levy, linked to the commercial provision and deployment of generative AI. Such mechanisms should secure the participation of individual creators rather than only intermediaries, and leave scientific research under Article 3 of the DSM Directive unaffected.

Research: Europe-wide permissions instead of a patchwork

- **A mandatory research exception.** The current research exception is optional and unevenly implemented, so the same use may be lawful in one Member State and infringing in another. FIZ Karlsruhe calls for a mandatory, harmonised exception that works across borders, cannot be overridden by contract or technical protection measures, and replaces a rigid commercial/non-commercial test with a weighing of recognised scientific research objectives.
- **Text and data mining and AI-supported analysis.** The research exception for text and data mining should cover computer programs, for instance for security research, and allow corpora to be shared for joint research and the verification of results. The statement also proposes a royalty-free exception for strictly internal, AI-supported scientific analysis, such as building non-public knowledge bases or comparing source documents.
- **A harmonised secondary publication right.** Authors should be able to make all forms of scholarly output openly available, including the edited volumes, yearbooks and proceedings central to the humanities: the accepted manuscript immediately, the version of record after a reasonable, sector-specific embargo. The right should belong to authors and not depend on a fixed percentage of public funding.

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- **A fifth freedom pro scientia.** The statement links these reforms to the planned "fifth freedom" of the internal market. "Without copyright reform, a fifth freedom would remain largely declaratory," it argues. At the same time, the fifth freedom should be understood as a freedom of research and of the circulation of scientific knowledge, realised through permissions rather than licences, and not as a market freedom for knowledge products.

Background

The European Commission's targeted consultation builds on a call for evidence published in May 2026. It asked stakeholders whether further measures are needed in four areas: copyright and generative AI, online piracy of live events, the use in the EU of sound recordings of non-EU nationals, and copyright in research. The results will feed into a targeted initiative for a better copyright environment for European creativity and innovation.

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