



## **A Missed Opportunity to Enforce Meaningful Transparency Obligations under the EU AI Act**

In July 2025, the European Commission released three documents intended to implement the transparency obligations for General-Purpose AI providers (GPAI) systems set out in the EU AI Act:

- A *Code of Practice* clarifying transparency and copyright-related obligations under the AI Act.
- *Guidelines* for GPAI providers on the scope and application of those obligations.
- A *Transparency Template* for training data disclosures, to be administered by the EU AI Office.

Transparency is essential for rights holders to determine whether their works have been used by GPAI providers, so they can either license their content or exercise their right to opt out. This principle is explicitly recognised in the AI Act.

However, the measures adopted fall far short of ensuring effective protection for Europe's creative and media sectors:

- The *Code of Practice* is voluntary, lacks binding mechanisms, and provides no robust oversight or enforceable safeguards.
- The *Transparency Template* is insufficiently detailed, failing to give rights holders meaningful visibility over training datasets.
- The *Guidelines* unduly allow GPAI providers to limit their reporting and, in effect, *cherry-pick* their compliance. The *Guidelines* narrow the scope of obligations, including by proposing exemptions for models deemed “specialised” (such as image focused systems like MidJourney or DALL-E), even when such models have multi-modal functions or significant commercial deployment. These exclusions which are not mandated by the AI Act will create loopholes.

Despite CEPIC's extensive engagement in the consultation process, these documents do not reflect the concerns of rights holders of visual content and fail to strike a fair balance between the interests of all stakeholders.

CEPIC will continue to advocate for *enforceable* and *effective* transparency and licensing standards in upcoming regulatory initiatives. We urge the European Commission and EU co-legislators to take swift action to uphold the intent of the AI Act and protect European intellectual property by ensuring fair and workable rules for the emerging AI licensing market.

*(A legal assessment of the three documents is provided in the annex.)*



## **Legal ASSESSMENT OF CoP and of GUIDELINES for GPAI Providers**

### **Improvement of Code of Practice, from third draft to Final version**

#### **1. Stronger Obligation to Mitigate Infringing Outputs**

The vague obligation to make “reasonable efforts” to reduce the risk of repeated copyright-infringing outputs has been replaced by a more concrete commitment to “implement appropriate and proportionate technical safeguards to prevent” the generation of such content. This eliminates the implication that occasional infringements were acceptable and provides a clearer, verifiable standard.

#### **2. More Robust and Fair Complaint Mechanism**

The final Code requires Signatories to handle complaints “diligently, non-arbitrarily, and within a reasonable timeframe.” Importantly, it removes the clause that allowed the rejection of “excessive” complaints—an exclusion that could have enabled the dismissal of systemic issues. This establishes a more accessible and balanced redress system.

#### **3. Enhanced Transparency on Rights Reservation Compliance**

The final version includes a commitment to automatically notify affected rights holders when key information (such as crawler behavior or rights-reservation settings) is updated. This represents a significant improvement over earlier drafts, which merely encouraged “reasonable” transparency, and it enables more effective real-time monitoring by rights holders.

Despite these welcome improvements, the Code of Practice still falls short in several fundamental areas necessary to ensure strong and enforceable protection for rights holders:

#### **1. Voluntary Nature and Lack of a Safe Harbor**

As a non-binding instrument, the Code does not guarantee compliance with EU copyright law and offers no safe harbor. It does not exempt Signatories from liability, nor does it replace the need for rights holders to seek enforcement through legal channels.

#### **2. Absence of Independent Oversight**

The Code relies entirely on self-assessment by Signatories. There is no



independent audit or supervision mechanism to verify compliance, leaving a significant accountability gap.

3. **Lack of Strict Due Diligence on Third-Party Datasets**

The Code does not require Signatories to verify the legality and provenance of **datasets obtained from third parties**. This loophole enables the continued ingestion of unlicensed content.

4. **No Proactive Mechanism for Information**

The Code fails to establish a process allowing rights holders to proactively verify whether their works were used to train a GPAI model. The current system remains reactive, placing the burden on rights holders to allege infringement without sufficient information to substantiate their claims.

5. **Burden of Opt-Out Remains on Creators**

The Code does not shift responsibility to GPAI providers to verify content usage in advance. Creators must still proactively opt out, rather than AI developers being required to obtain prior authorisation or rely solely on licensed content.

**Guidelines on the scope of obligations for providers of general purpose [AI models](#)**

6. 1. “No Generality” Carve-Out (Section 2.2)

7. **Models** meeting the  $10^{23}$  FLOPs compute threshold but limited to narrow tasks (e.g., image-only) are not classified as GPAI.

- These large models can avoid deeper transparency and technical documentation duties reserved for GPAI, despite often being trained on massive copyrighted image datasets.

2. Partial Adherence to Codes of Practice (Section 5.1)

- Providers can sign only selected chapters of the voluntary Code if they show baseline compliance by other means.
- Many may skip dataset transparency and provenance labeling chapters—the most valuable commitments for rights holders.

3. Transparency Gaps for Open-Source Models (Article 53(2); Section 3.2)

- Open-source GPAI providers can avoid most technical documentation and downstream transparency duties by publishing weights, architecture, and the



information on model usage, leaving only the minimal training data summary (often vague) required by the AI Act.

#### 4. Broad Redistribution and Monetisation Rights (Sections 3.1 & 5.2)

- Open-source licences must allow unrestricted use, modification, and redistribution, including closed-source commercialization, unless limits are justified for safety or rights protection.
- AI Providers can also offer paid services or support for free models without triggering new obligations, enabling indirect monetization of works trained on copyrighted content.

#### **Explanatory Notice and Template for the “sufficiently detailed summary” required under Article 53(1)(d) of the AI Act**

**The current Template lacks sufficient detail** to allow rightsholders to determine whether their works were used in AI training. It does not require *work-level identification*, unique identifiers, or full URL/crawler disclosure, limiting transparency to “top domain names” and large dataset names.

1. **No KPIs or verification mechanisms** are included, making it almost impossible to measure or challenge providers’ compliance with copyright obligations under Articles 53(1)(c) and (d).
2. **Licensing and legal basis transparency is absent**, with the Template merely asking whether licensed data was used, but not its scope, terms, or fees.
3. **Key transparency elements are missing**, including the retention and downstream use of training data, bias and diversity mitigation, annotation and ethical review processes, and mechanisms for rightsholders to follow up (such as contact points, audits, or appeal procedures).
4. Overall, the Template prioritizes **simplicity and trade secret protection** over the mandate in Recital 107 AI Act to provide a summary that is “sufficiently detailed” to enable the exercise and enforcement of rights under Union law.

THE END