

**LETTER OF CONCERN: UNBALANCED EXTENDED COLLECTIVE LICENSING FOR AI TRAINING IS ABUSIVE, OPAQUE AND HIGHLY HARMFUL FOR THE FUTURE OF WRITERS, TRANSLATORS AND HUMAN CULTURE.**

**EWC AND THREE OF ITS SPANISH MEMBERS PLEA FOR PROFOUND MODIFICATIONS IN THE KINGDOM OF SPAIN DRAFT ROYAL DECREE REGULATING THE GRANTING OF EXTENDED COLLECTIVE LICENSES FOR THE MASSIVE EXPLOITATION OF WORKS AND OTHER SUBJECT MATTER PROTECTED BY INTELLECTUAL PROPERTY RIGHTS FOR THE DEVELOPMENT OF GENERAL-PURPOSE ARTIFICIAL INTELLIGENCE MODELS.<sup>1</sup>**

*Brussels, 22 January 2025*

To the Ministry of Culture of the Kingdom of Spain, to whom it may concern,

Considering the recent development of a draft Royal Decree by the Kingdom of Spain's Ministry of Culture to allowing Generative Artificial Intelligence training with an Extended Collective Licensing, the European Writers' Council (EWC), and three of its Spanish Members want to remark some aspects of the draft decree that are opaque, dangerous and seriously short-sighted and pro-tech biased.

The decree aims to facilitate the development of a national Artificial Intelligence Large Language Model for general purposes with public resources.<sup>2</sup> Some steps have already been taken with public funding to train MarIA, a large language model in the four official languages of Spain, with collaboration of the National Library.<sup>3</sup> Now, the decree seeks to allow training the model with copyrighted works introducing extended collective licensing under Art. 12 of the CDSM Directive (EU) 2019/790, under the assumption, as the decree says, that this mechanism allows that Collective Management Organisations grant, given some conditions, non-exclusive authorisations for the exploitation of works and other subject matter on behalf of rightsholders, irrespective of whether or not the rightsholders have authorised the CMO to do so, i.e. in the absence of express authorisation by all of them. The drafted Royal Decree assumes that many rightsholders, given a remuneration scheme, will be happy to cede them: this is a non-proved assertion, and it is a hint of the deep bias the decree shows.

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<sup>1</sup> <https://www.cultura.gob.es/en/dam/jcr:95c986c7-893f-46c6-81d4-3ba822a6696e/proyecto-rd-licencias-colectivas.pdf>

<sup>2</sup> <https://datos.gob.es/es/blog/asi-es-maria-la-primera-inteligencia-artificial-de-la-lengua-espanola>

<sup>3</sup> <https://www.bne.es/es/noticias/1111-el-primer-sistema-masivo-de-inteligencia-artificial-de-la-lengua-espanola-maria>

Three Spanish Members of the European Writers' Council (EWC), Asociación Colegial de Escritores (ACE), Associació d'Escriptors en Llengua Catalana (AELC), and Asociación de Escritoras y Escritores en Lingua Galega (AELG), with support from Centro Español de Derechos Reprográficos (CEDRO) and in collaboration with other national authors' associations, launched a survey to better understand the real opinion of authors when it comes to GAI training with their copyrighted works.<sup>4</sup>

The survey, driven in several national languages and aimed to more than 9.000 writers, show some data that put things in place. As much as 96.5% of the more than 800 respondents believe that the use of their work for the training of GAI models required the express authorisation of the author, in line with the ART Principle (Authorisation, Remuneration, Transparency) championed by EWC. This, as the national associations affirm, is the most secure way to develop GAI models in a fair way and in compliance with Intellectual Property Rights.

Manuel Rico, President of Ace, points that "Any type of collective license must be absolutely respectful of all the content that is protected, in terms of copyright, by intellectual property legislation. Authorization, Remuneration and Transparency must be guaranteed in all its extremes. That is why we demand a profound modification of the drafted Royal Decree presented by the government of Spain in the GAI model being elaborated. Without authors there is no culture".

Almost half of the respondents (49.9%) would not confer the right even if paid. Out of them, more than half (52 %) argue that the GAI erodes the quality of creative work. More than half (56.2%) of the respondents claim for transparency (how and what for) in the use of data. This is a deal-breaker to effectively consider an authorisation.

As Sebastià Portell, President of AELC states, "A proper and respectful implementation of AI in the Spanish context would mean good news not only for the cultural and professional rights of literary authors, but also for the rights of the citizens related to language diversity, digital rights and the right to access to good, human created, cultural works".

Finally, the survey studies what kind of remuneration (pay per word or per book, for example) should be better. It seems that the payment per word is preferred, but the important question of the amount per word remains unsolved.

Cesáreo Sánchez, President of AELG, remarks that "The new ways in which Generative Artificial Intelligence technologies use content created by authors in the context of the cultures and languages of the Spanish State, must necessarily be accompanied by respect for the legislation that protects intellectual property. Professional rights are part, with the cultural rights of creators, of the culture that is sustained by each language, which in turn is the clay with which the identity of each people is built. The new digital time cannot be an excuse for creators' rights to suffer an unjustifiable regression".

The draft Royal Decree has been into public consultation between 19 November and 10 December 2024, a really short span of time, and contains other controversial points, as the expected

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<sup>4</sup> <https://www.acescritores.com/wp-content/uploads/Qbo-ENCUESTA-USO-DE-LAS-OBRAS-PARA-EL-ENTRENAMIENTO-IAG1.pdf>

mechanism of express opt-out of the copyrighted works that could be used in GAI training: it proposes, for example, a ten working days window to exercise the opt-out, which is clearly insufficient. Other doubts, like the real representativeness of the Collective Management Organisations capable of granting the rights, are also in doubt, as well as the obligations of the companies benefiting from the granting of those rights. Another important question is that Art. 2 of the draft decree seems to equal TDM and AI training, which is heavily under discussion: AI is not text and data mining (TDM) and it is not covered under the exceptions contemplated in Art. 4 of the CDSM Directive (EU) 2019/790.<sup>5</sup> These and other aspects need to be changed to effectively respect authors' rights.

The signatories consider that the projected Royal Decree is unfair, doesn't balance rights between agents and poses a perilous precedent. The fact that these GAI systems need vast amounts of data to be trained cannot be taken as an excuse to expropriate rights and possessions of authors. The highest good, as a guideline when judging an act or drafting a law, needs to be preceded by the respect of the rule of law. As EWC President Serrano poses, "The unclear promise (or the hype) of a better and more innovative world due to GAI can't be compared to the millenary reality of human culture and the existence and importance of books and other forms of written knowledge (as the mere law) that need to be effectively protected by authorities". To protect that greater good, the signatories plea for a profound revision and modification of the drafted Royal Decree to ensure a scrupulous compliance with authors' rights and for the opening of a real and respectful debate with the authors, the rightsholders of their texts and the only ones that can grant any authorisation for the use of their legal property.

With kind regards,

**Miguel Ángel Serrano**  
EWC President



**Manuel Rico**  
ACE President



**Sebastià Portell**  
AELC President



**Cesáreo Sánchez**  
AELG President



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<sup>5</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4993782](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4993782)