COAD

Citizens of Australia Dividend

Position paper

Funding the dividend: a statutory licence and levy model for AI training on Australian creative works

July 2026 — Revised edition

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This paper presents the COAD initiative's position on compensation for the use of Australian copyright material in training artificial intelligence models. It is provided for the consideration of ministers, departments and members of parliament. This revised edition incorporates findings from an independent STORM research assessment (15 July 2026) — see the Revision Note below.

Revision note

This edition revises the July 2026 first draft following an independent, citation-verified assessment. Three changes matter most: section 3.1 now addresses a directly relevant 1993 High Court precedent that the first draft did not mention; recommendation 3 is reframed as an extension of the Government's own News Bargaining Incentive rather than a new instrument; and the revenue estimates in section 4 are now cross-referenced against independent market research rather than presented unsourced. A new recommendation 8 proposes the single highest-value next step: a formal drafting opinion on whether the constitutional fix and the trade-law defence can be reconciled.

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Executive summary

The Australian Government is under sustained pressure to grant artificial intelligence (AI) developers a text and data mining (TDM) exemption under the Copyright Act 1968. Public reporting indicates that a package under consideration would pair such an exemption with approximately $50 billion in data centre investment and a flat $350 million annual fund for creators.

COAD's position is that both elements of that package are poorly designed. An uncompensated exemption transfers a national asset — the accumulated creative output of Australians — to foreign technology companies at zero price. A flat fund is arbitrary, static and disconnected from the commercial value the training data generates over time.

This paper proposes an alternative that serves creators, AI developers, the government and the wider public: a statutory licence for AI training, priced as a levy on AI revenue earned from Australian customers. The model uses only mechanisms with established Australian precedents — blanket collective licensing, destination-based collection of the goods and services tax (GST) on imported digital services, the News Bargaining Incentive, and the Future Fund.

Half of levy proceeds would be distributed to registered rights holders through a collecting society. The other half would accumulate in a dedicated sovereign sub-fund, establishing the revenue base for a future citizens' dividend as AI-driven economic disruption grows — the core objective of the COAD initiative.

This revised edition also addresses a constitutional risk not identified in the first draft: a 1993 High Court decision struck down a structurally similar scheme. Section 3.1 sets out the fix, which is already the design the Government itself has adopted for a comparable, currently-before-Parliament instrument — meaning COAD is proposing an extension of a working model, not an untested one.

Recommendations

1. Rule out any uncompensated text and data mining exemption to the Copyright Act 1968.
2. Legislate a statutory licence permitting the use of copyright material for AI model training, conditional on payment of a licence fee and compliance with transparency obligations.
3. Legislate the levy as an extension of the News Bargaining Incentive model — a dedicated taxation Act, collected by the Australian Taxation Office using the destination-nexus machinery introduced for imported digital services in 2017, at a rate of 2 to 3 per cent on in-scope AI service revenue derived from Australian customers.
4. Distribute 50 per cent of proceeds to registered rights holders through a designated collecting society using sampling and category-weighted proxies; direct the remaining 50 per cent to a dedicated sub-fund of the Future Fund.
5. Legislate a dividend trigger: distributions from the sub-fund to citizens commence when the fund balance or in-scope AI revenue passes defined thresholds.
6. Make data centre planning approval, grid connection and access to renewable energy agreements conditional on participation in the statutory licence scheme.
7. Grant safe harbour from infringement claims only to licensees that disclose training data sources and submit to independent audit.

8. Commission a formal legislative drafting opinion on whether a taxation-Act structure required to withstand constitutional challenge (section 3.1) can be reconciled with the non-discrimination defence relied on for AUSFTA purposes — before the model is finalised or relied on in external representations.

1. Background

Frontier AI developers have advised the government that Australian copyright law is the main barrier to locating model-training operations in Australia. The Productivity Commission's 2025 interim report proposed a TDM exemption; the Attorney-General ruled it out in October 2025 following a strong response from the creative sector. Lobbying has continued, and in late June 2026 material provided to Senator David Pocock described an industry proposal linking a copyright carve-out to data centre investment of at least $50 billion and an annual creators' fund of approximately $350 million.

The Prime Minister's July 2026 address on AI policy confirms the issue is live. The government faces a genuine dilemma: Australia is an attractive data centre host — politically stable, land-rich, with expanding renewable generation — and the investment on offer is substantial. But the current negotiating frame presents a false binary: give the exemption away, or lose the investment.

On 15 July 2026, the Prime Minister announced a new Office of AI within the Department of the Prime Minister and Cabinet, taking direct central oversight of AI policy ahead of a single national framework and Australian AI standards. Copyright, however, was addressed only briefly in that announcement, with the Prime Minister pointing to the Attorney-General's existing consultation work rather than folding it into the new office. Copyright policy therefore remains with the Attorney-General for now, but the centralisation of AI policy more broadly — and the explicit statements from the Attorney-General, the Minister for Industry and Innovation, and the Treasurer that Australia's copyright settings will not be weakened for AI — make this a timely moment to put a concrete, ready-to-legislate model in front of government, including the new Office of AI as a coordinating audience alongside the portfolios directly responsible.

Separately, and directly relevant to the model proposed here, the government has already legislated a closely analogous instrument for a different sector. The News Bargaining Incentive — first committed to in December 2024, with draft legislation released 28 April 2026 for intended commencement 1 July 2026 — imposes a revenue-based charge on large digital platforms structured so that withdrawing the underlying content does not avoid it. Section 3.6 sets out why this matters for the model proposed here.

2. Problems with the proposals under consideration

2.1 The uncompensated exemption

A free TDM exemption prices a permanent input to a high-growth global industry at zero. It extinguishes creators' bargaining position by statute, raises serious questions under section 51(xxxi) of the Constitution (acquisition of property on just terms), and sets a precedent that national creative output is available to the highest-pressure lobbyist rather than the highest bidder.

2.2 The flat fund

A fixed $350 million annual fund fails on three grounds. It is arbitrary — unconnected to any measure of the value extracted. It is static — worth progressively less as AI revenue grows. And it is a settlement, not a price: it forecloses the principle that training data is an ongoing input warranting an ongoing return.

3. The proposed model

3.1 Legal architecture: a statutory licence, not an exemption

The Copyright Act already contains statutory licences that convert exclusive rights into rights of remuneration — most familiarly in educational copying and broadcast music. Under the proposed model, AI developers gain a legal right to train on Australian copyright material, and rights holders gain a legal right to be paid.

A constitutional caution is warranted. In Australian Tape Manufacturers Association Ltd v Commonwealth (1993) 176 CLR 480, the High Court considered a structurally similar scheme — a statutory licence funding a levy paid to a private collecting society for blank-tape copying — and split 4:3 to hold that the impost was, in substance, a tax; because the enabling Act dealt with matters beyond taxation, it breached section 55 of the Constitution. The same case found no unconstitutional acquisition of property under section 51(xxxi) from converting an exclusive right into a right to remuneration, which supports this paper's 'just terms' position. It means, however, that the levy cannot safely be legislated as an incidental provision of the Copyright Act alone.

The precedent's own remedy is well established and already in active use elsewhere in Commonwealth law: route the charge through a dedicated taxation Act, with proceeds directed to consolidated revenue rather than paid directly to a private collecting society, and address distribution to rights holders through a separate appropriation or administrative mechanism. This is the structure the Government has already adopted for the News Bargaining Incentive (section 3.6) — Australia does not need to invent this fix, only apply a working one to a second sector.

This structural fix sits in tension with the trade-law position below. COAD's assessment is that the two can be reconciled — a dedicated taxation Act applied without nationality discrimination is a materially different instrument to the digital services taxes that attracted United States trade retaliation threats in Europe — but this has not been tested by a formal drafting opinion. Recommendation 8 proposes obtaining one before the model is finalised or relied on in external representations.

3.2 The levy base

The levy applies to revenue, not profit, because profit is readily shifted offshore through transfer pricing. The base is revenue from supplying in-scope AI services to Australian customers — model API access, AI product subscriptions, and AI-generated advertising services — regardless of where the supplier books the revenue. The Australian Taxation Office has operated exactly this destination-nexus collection model for imported digital products and services since 1 July 2017. A rate of 2 to 3 per cent sits within the range adopted by comparable digital services levies in France and the United Kingdom.

3.3 Distribution

Proceeds are split in two:

- Creator share (50 per cent): distributed by a designated collecting society to registered rights holders. Because per-work attribution within trained models is not technically measurable, distribution uses sampling and category-weighted proxies — the same pragmatic approach that underpins blanket music licensing, where per-venue playlists are not individually tracked.
- Public share (50 per cent): credited to a dedicated sub-fund of the Future Fund, invested under the Future Fund's governance arrangements, with a legislated trigger for dividend distributions to citizens.

3.4 Transparency and safe harbour

Safe harbour from copyright infringement claims is available only to licensees that disclose their Australian training data sources and submit to independent audit. Developers trade opacity for legal certainty; rights holders gain the visibility required to make distribution defensible.

3.5 Linking the levy to the data centre pipeline

On its own, a levy applied by a market representing roughly 1.5 per cent of global AI demand has limited leverage: suppliers could withdraw services rather than pay. The levy therefore operates as part of a bundle. Planning approval, grid connection and renewable energy access for AI data centres are conditional on scheme participation. For developers seeking stable land, power and jurisdictional certainty, a 2 to 3 per cent levy is a minor cost against the value of the infrastructure package.

3.6 A working precedent: the News Bargaining Incentive

The Government has already legislated a closely analogous instrument for a different sector. The News Bargaining Incentive imposes a 2.25 per cent charge on the Australian revenue of large digital platforms, reducible to 1.5 per cent through direct commercial deals with news publishers, and designed so that withdrawing the underlying content does not avoid the charge. First committed to in December 2024, draft legislation (the News Media Bargaining Charge Bill 2026 and related bills) was released for consultation on 28 April 2026, with intended commencement from 1 July 2026.

Former ACCC Chair Rod Sims has publicly proposed extending this exact mechanism to AI developers training on media content, noting only two or three companies would need to be brought within scope. COAD's proposal can be positioned to government as an extension of this Government-endorsed, already-drafted model to the wider creative sector — a materially smaller and more readily achievable legislative step than an entirely new instrument, and one with a natural ministerial and departmental audience already engaged on the underlying design.

4. Indicative revenue and the dividend pathway

Illustrative figures only; the scheme should include a statutory review at three years.

Parameter	Near term (2027–28)	Medium term (2030–31)
In-scope AI revenue (Australian customers)	$4–6 billion	$10–15 billion
Levy at 3 per cent	$120–180 million p.a.	$300–450 million p.a.

Parameter	Near term (2027–28)	Medium term (2030–31)
Creator share (50 per cent)	$60–90 million p.a.	$150–225 million p.a.
Public sub-fund share (50 per cent)	$60–90 million p.a.	$150–225 million p.a.

These figures should be read alongside independent market sizing rather than treated as a bespoke costing. Grand View Research estimates Australia's generative AI market at US$1.5 billion in 2025, growing at a 41.9 per cent compound annual rate to US$23.4 billion by 2033. That trajectory is broadly consistent with the range above, but it describes the whole Australian generative AI market, not only the narrower set of in-scope services (model API access, subscriptions, and AI-generated advertising) this levy would apply to. The figures above should therefore be treated as an illustrative upper bound pending dedicated economic modelling, not a precise costing — and any external representation of them should say so.

The public share is initially modest — of the order of $5 to $8 per Australian per year at the medium-term estimate. COAD's position is that this is a feature of honest design, not a defect. The sub-fund operates in an accumulation phase on the Future Fund and Norwegian sovereign wealth fund pattern: contributions compound, no distributions are made, and the dividend switches on when legislated thresholds are met. Early-phase sequencing also answers the predictable political attack that the fund is a token gesture — the point in the early years is the principle and the compounding base, while creators are paid in full from day one.

The strategic significance exceeds the near-term dollars. The scheme establishes in legislation that data used to train AI systems is a collective national asset carrying an ongoing yield to its owners and to the public. As AI-driven labour market disruption expands — the core concern of the COAD initiative — this precedent and this fund provide the natural vehicle for broader dividend financing.

5. Risks and mitigations

Risk	Mitigation
Service withdrawal / geoblocking	Levy is bundled with data centre approvals, grid access and renewable energy agreements; rate kept in the 2–3 per cent range.
United States trade retaliation (AUSFTA)	Proposed as a dedicated taxation Act applied without nationality discrimination — structurally distinct from the digital services taxes that attracted United States retaliation threats in Europe. This distinction has not yet been tested by formal legal opinion; COAD recommends obtaining one before the model is finalised (Recommendation 8, section 3.1).
Constitutional challenge — section 55 (taxation) and section 51(xxxi) (just terms)	Rights holders receive continuing remuneration, addressing ‘just terms’. To avoid the section 55 defect identified in Australian Tape Manufacturers Association Ltd v Commonwealth (1993) 176 CLR 480, the levy is legislated as a dedicated taxation Act rather than an incidental provision of the Copyright Act (section 3.1).
Revenue avoidance via transfer pricing	Revenue base with destination nexus, collected under existing ATO machinery for imported digital services.

Risk	Mitigation
Attribution disputes among rights holders	Sampling and category-weighted distribution administered by a designated collecting society, with published methodology and review rights.
Fund raided for general revenue	Sub-fund quarantined under Future Fund governance with a legislated purpose and dividend trigger.

6. Legislative pathway

- Amend the Copyright Act 1968 to create the statutory AI-training licence, transparency conditions and safe harbour.
- Enact a dedicated taxation Act to establish the levy on in-scope AI revenue with destination nexus, administered by the Australian Taxation Office — structured, per section 3.1, to withstand a section 55 challenge, and extending rather than duplicating the News Bargaining Incentive model (section 3.6).
- Designate or establish a collecting society (an expanded Copyright Agency is the obvious candidate) for the creator share.
- Establish the public sub-fund by amendment to the Future Fund Act 2006, including the legislated dividend trigger.
- Coordinate data centre conditionality through national planning and energy market frameworks with the states and territories.
- Obtain a formal drafting opinion reconciling the taxation-Act structure with the AUSFTA non-discrimination position before the model is finalised (Recommendation 8).

Every component of this pathway has a working Australian precedent. The only innovation is the connection between them.

7. Conclusion

Australia does not need to choose between its creators and the AI investment boom. A statutory licence priced as a revenue levy pays creators immediately, gives AI developers the legal certainty they say they need, converts the data centre pipeline into negotiating leverage rather than a bribe, and builds the first legislated revenue base for a citizens' dividend.

The Government's own handling of the News Media Bargaining Code is instructive, in both directions. It proved government can force a price to be negotiated and paid while the code's design held — and, once major platforms chose not to renew their deals, it prompted the Government to legislate a stronger instrument, the News Bargaining Incentive, precisely so that withdrawal cannot avoid the charge. COAD's model asks government to take that same lesson and apply it from the outset, rather than learning it again the hard way in the copyright context.

COAD urges the government to reject the false binary of exemption or exclusion, and to price the asset instead.

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Prepared July 2026; revised 15 July 2026 following an independent STORM research assessment. This paper draws on public reporting by the ABC, Guardian Australia and others regarding proposals before the government as at 14 July 2026.