

Yiannis Maragoudakis (APOLLON, Head of Legal), delivering the keynote, after showing the inability of the market to self-regulate, presented a detailed **legislative framework** to ensure rightsholders' rights, based on three pillars: **Remuneration, Consent, Transparency.**

A remuneration right **non-waivable, non-transferable, subject to mandatory collective management from CMOs**, stating that publishers or producers cannot license AI content by themselves, without the explicit consent of the rightsholders they represent, opposing to contractual clauses of no matter how old contracts, granting producers or publishers every right for ways of exploitation to be invented in the future. **Infringement of personality data** should also be included in a remuneration claim.

A **levy for the input** (for machine learning), **towards tech companies and AI platforms**, regarding a **percentage of their gross income** generated globally, payable to a society of rightsholders' CMOs on a national basis and **distributable in equal shares** between each CMO's members (since machines could have been trained from each rightsholders' contribution, without knowing the exact percentage).

A **fee for the output** (for generative AI), **towards end-users**, according to **CMOs' tariffs** at a rate no less than of a similar human creation for the same use, payable to each CMO and **distributable** between its members **on a market share basis** (since the output is a reproduction of the market standards in time and place).

Though rightsholders support an **opt-in system** (participation by declaration, requiring informed and explicit rightsholder's consent prior the use of all data), being in line with traditional licensing, tech companies and AI platforms obviously support an **opt-out system** (exception by declaration, which assumes permission is granted for the use of all data unless a rightsholder explicitly objects), even if **not compatible with the three-step test**, as limitations and exceptions are overly broad, conflict with the normal exploitation of the work depriving rightsholders of a substantial source of income and cause disproportional harm against their legitimate interests.

Due to the complexity of each CMO engaging in negotiations with each AI platform worldwide, and the provision of opting out under Text and Data Mining exception for non-educational use, where applicable, **the opt-out system could be a reasonable compromise**, granting the right to opt out to each rightsholder (even in terms of mandatory collective management, the moral right prevailing) and to each CMO through a public statement uploaded online. An **opt-out depository** should be created worldwide, containing all opted out repertoires.

It was specifically stated that **for opting out to have a retroactive effect, unlearning of the machines should be feasible**. Since that seems not to be technically possible, there is no claim for restitution but only for rightsholders' remuneration. **The inability of retroaction is a major fault of the opt-out system.**

For litigation to be effective, it's suggested to **inverse the burden of proof with the provision of a rebuttable presumption for the use of copyright protected content**, so that AI platforms or end-users as defendants, must prove the non-infringement of rightsholders' rights as plaintiffs, and not vice versa. Otherwise, every plaintiff should need a musical study for each phonogram to prove its claim, which is unrealistic.

Being imperative for people and rightsholders to know whether a creation or a performance is generated by AI or not, **dealing with the transparency issue, a watermark for all AI generated products should be introduced**, containing in the digital form of the product all necessary information regarding the machine-readable metadata that was used for the generation of the AI product **and the percentage of each rightsholder's influence**.

Since performers are more affected by the expected decrease of CMOs' income due to AI, new sources of income for neighboring rights should be introduced.

Firstly, **the implementation of a streaming collective remuneration right, non-waivable, non-transferable, subject to mandatory collective management from CMOs** (as granted to copyright rightsholders), to add up to existing contractual provisions of featured artists.

Secondly, **the right to collect from live public performances** as authors do (because each playlist performed live is selected considering the original phonograms, to the creation of which contributed musicians and singers, different from the ones on stage, who receive no remuneration at all for the added value of their performance).

Thirdly, **the introduction of orchestrators as authors**, combined with a slight dedicated increase of author CMOs' tariffs so as not to affect composers (although orchestration is a significant contribution to the whole phonogram, isn't compensated at all).

Finally, **the abolishment of legal provisions, where applicable, for the distribution of neighboring rights between phonogram producers on one hand and performers on the other, in equal shares**, that is 50-50 (since on one hand performers, that is musicians and interpreters, are not represented at a union or a CMO level jointly, and on the other hand producers no longer invest in the

production of a phonogram in a physical form), **the aim for performers being the distribution of music neighboring rights at 1/3 for each category of rightsholders** (producers, musicians and singers).

Closing, Yiannis Maragoudakis, agreed that AI as implemented till now is 'the biggest theft of the century' and a clear assault against human rights. Calling for action, he quoted Camus writing '**and if Zero is our fate, let's not make it fair**'.