



# The Impact of AI Technology on Visual Arts and Photography

IP Key Conference on Copyright, Technology, and the Future of the Creative Industries in South-East Asia

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# CISAC

- International Confederation of Societies of Authors and Composers
- Founded in 1926
- Non-governmental, not-for-profit organisation
- The leading worldwide network of authors’ societies



# Worldwide presence



**227**  
**societies**



**116**  
**countries**

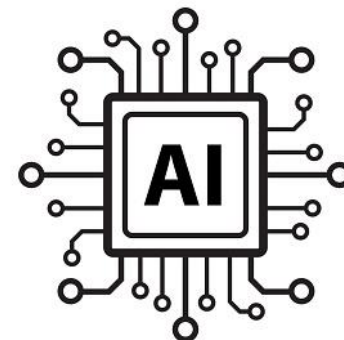


**Over 4 million**  
**creators**

# Artificial Intelligence & visual arts

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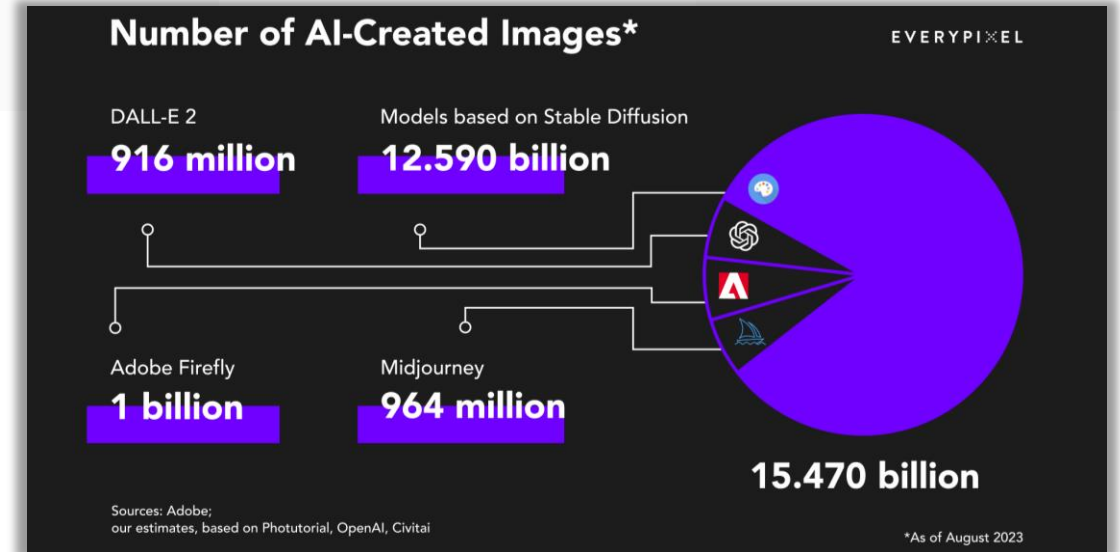
- AI is a transformative technology trained on existing data and use specific algorithms to achieve a certain goal
- It has many applications in several sectors, and is increasingly used in the creative and cultural industries
- AI brings many benefits to society but also has risks that could harm authors' livelihoods if not properly managed



# Artificial Intelligence & visual arts

Visual arts are hugely affected:

- AI is used to produce new works from huge data sets that are often protected by copyright.
- To obtain these images, AI freely scrapes existing images
- Data scraping is easy because images are often freely accessible
- Generative AIs can produce vast quantities of images quickly



Over 2022-23, the volume of AI generated images was greater than the photographs created in the first 150 years of photography !!!!!



# Benefits for visual artists

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Proper regulation of AI could greatly benefit the creative sector

Artists could leverage AI to:

- Finalize and process their artworks
- Accelerate the creative process

AI assists CMOs in:

- Improving the management of authors' data
- Ensuring accurate authorship identification



# Challenges for visual artists

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Conversely, AI poses challenges for real artists:

- It results in a lack of fair remuneration
- It boosts demand for low-cost AI-generated art
- It threatens artists ability to make a living from their works
- It leads to copyright infringement
- It raises concerns about the legality, ethics, and liability of AI in visual arts



# Artificial Intelligence & visual arts

“Next Rembrandt Project”



© <https://www.nextrembrandt.com/>



# Artificial Intelligence & visual arts

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Painting

An oil painting by Matisse of a humanoid robot playing chess



DALL·E (openai.com)

# Artificial Intelligence & visual arts

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Photography

A photo of a silhouette of a person in a color lit desert at night



DALL·E (openai.com)

# Artificial Intelligence & visual arts

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Design

An armchair in the shape of an avocado



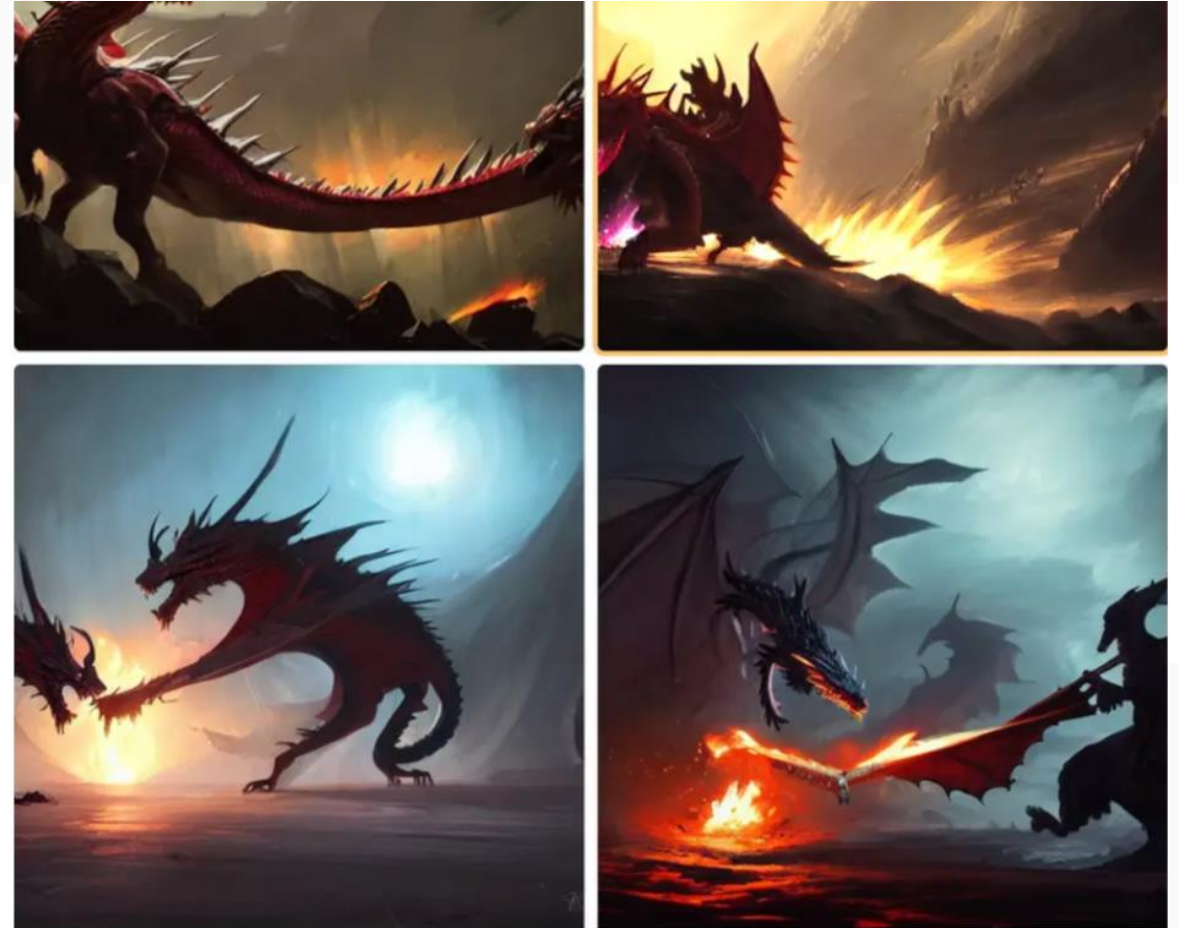
DALL·E (openai.com)

# Artificial Intelligence & visual arts

Illustration



"Dragon Cage" by Greg Rutkowski. Greg Rutkowski



Images created when Insider typed "Dragon battle with a man at night in the style of Greg Rutkowski" into Stable Diffusion. Stable Diffusion

# Rights involved (input)

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Reproduction right – Adaptation right

Exceptions:

- Transitory copies for technological process
- TDM activities (in many cases for education, research purposes)
  - EU (EU DSM Directive)
  - Japan
  - Singapore

Permitted uses under the “fair use” or “fair dealing” doctrine

- US
- Canada

# TDM exception

## Key issues for collective management

### What is TDM

- Automated analytical process of extracting text and data on which AI systems can be trained
- A wide range of digital content are systematically examined, including copyright-protected works

### Impact on creators

- Original works are exploited commercially, in many cases with no consent/ proper remuneration
- Infringement of copyright on pre-existing works
- Generates unfair competition



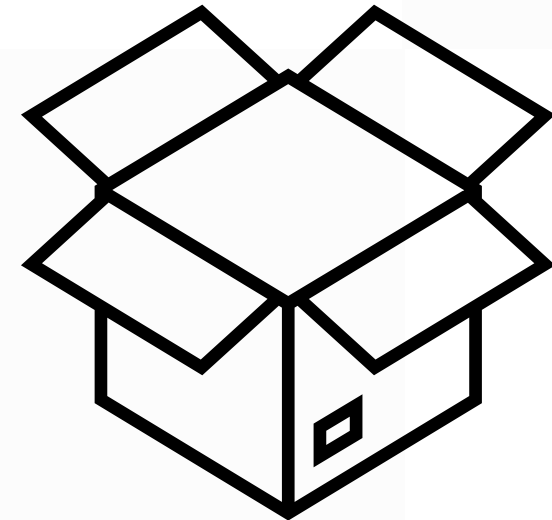
Text and data mining

# Reservation of rights – The opt-out

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## Art. 4.3. DSM Directive

The exception applies on condition that the use of works has not been **expressly reserved by their rightsholders in an appropriate manner**, such as **machine-readable means** in the case of content made publicly available online



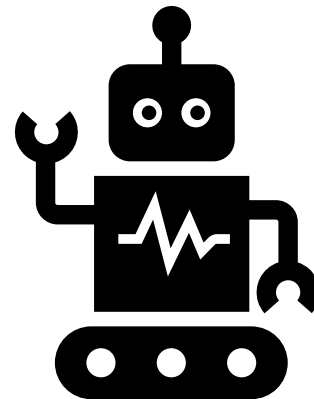
Reservation of rights

# The opt-out – Challenges for visual arts

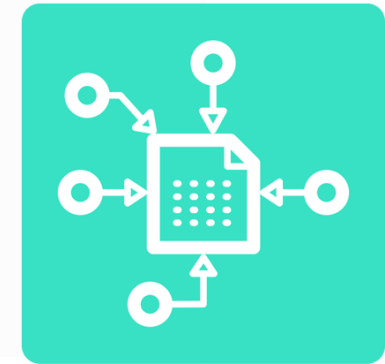
## Appropriate reservation - Options available



Restricted Access  
to web pages



Robots  
Txt, AI.Txt, TDM-Rep



Metadata

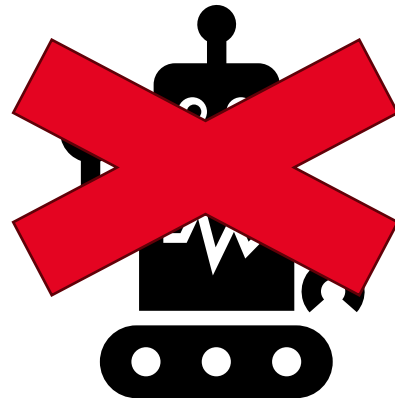


# The opt-out – Challenges for visual arts

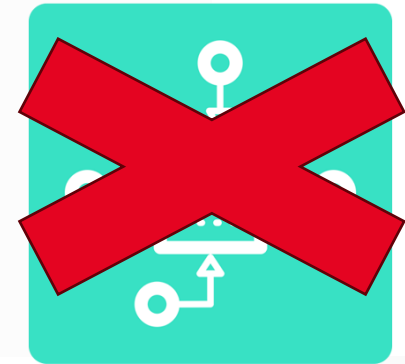
## Practical problems – Why it does not work



Images are usually available with no access restrictions



The available tools for server configuration are very limited



Metadata is frequently removed or altered by websites

# The opt-out in visual arts

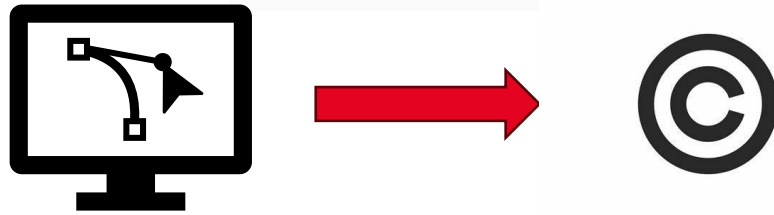
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Visual creators are not the distributors of their works



# AI generated content (output)

## Key issues



Meets requirements for  
copyright protection ?  
Originality?  
Sufficient human intervention?

Forming consensus:  
Purely generated AI should not  
be protected

# Case law in the US



## Zorya of the Dawn

A mix of AI-generated images and human-created contributions (text and arrangement)

No copyright for the AI-generated elements, but copyright is granted for the text and arrangement



## A recent entrance to paradise (Thaler v. Pelmutter)

Work not created by human

USCO does not register the work

Copyright protection requires human authorship

# Case law in the US

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Suryast

Mix of 2 works (painting + photo)

USCO does not register the work

AI (and not the applicant) decided the arrangement and combination of elements

# What is needed

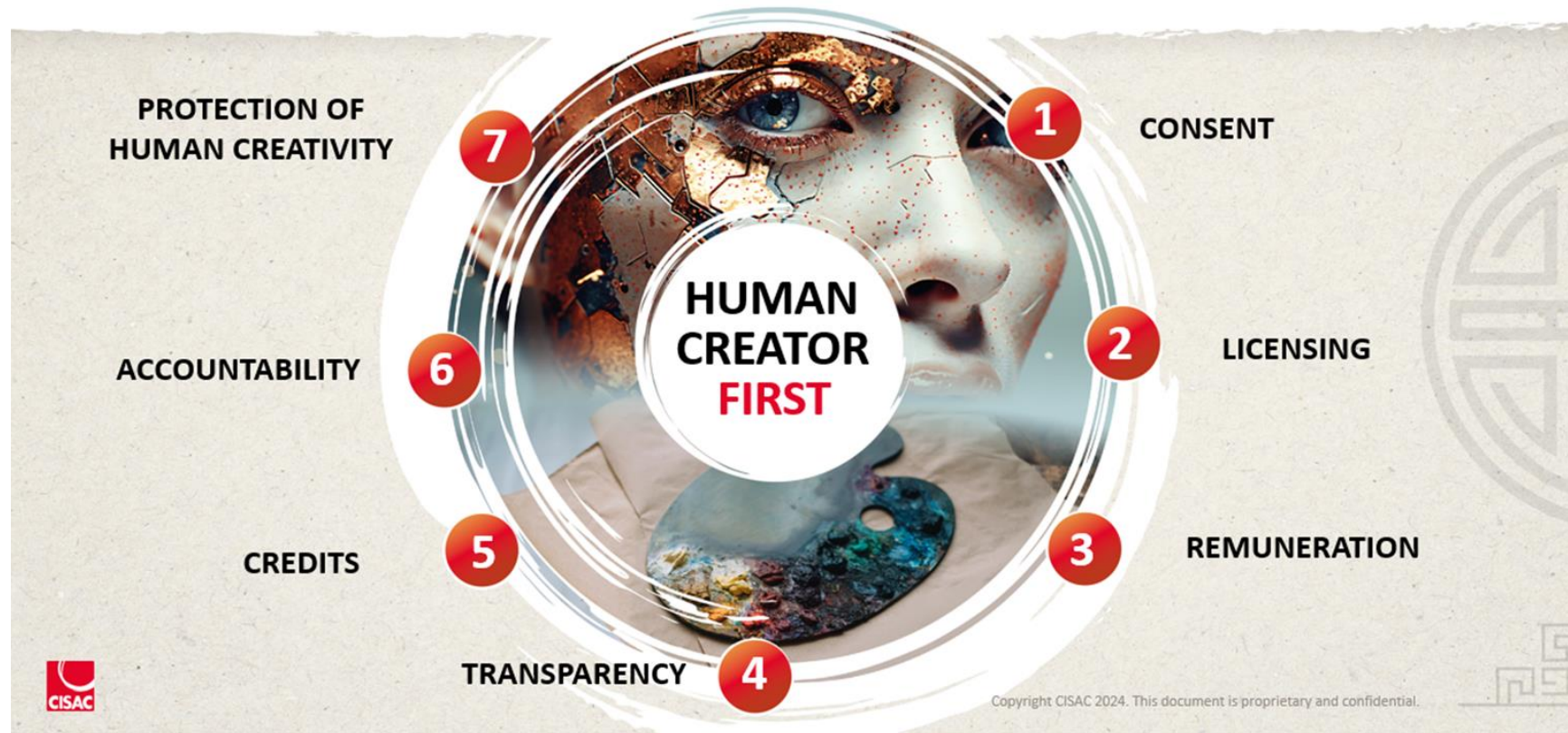
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- Need for proper regulation
- Reliance on industry self-regulation is not the solution.....
- Transparency obligations are key

# Key principles for a balanced solution

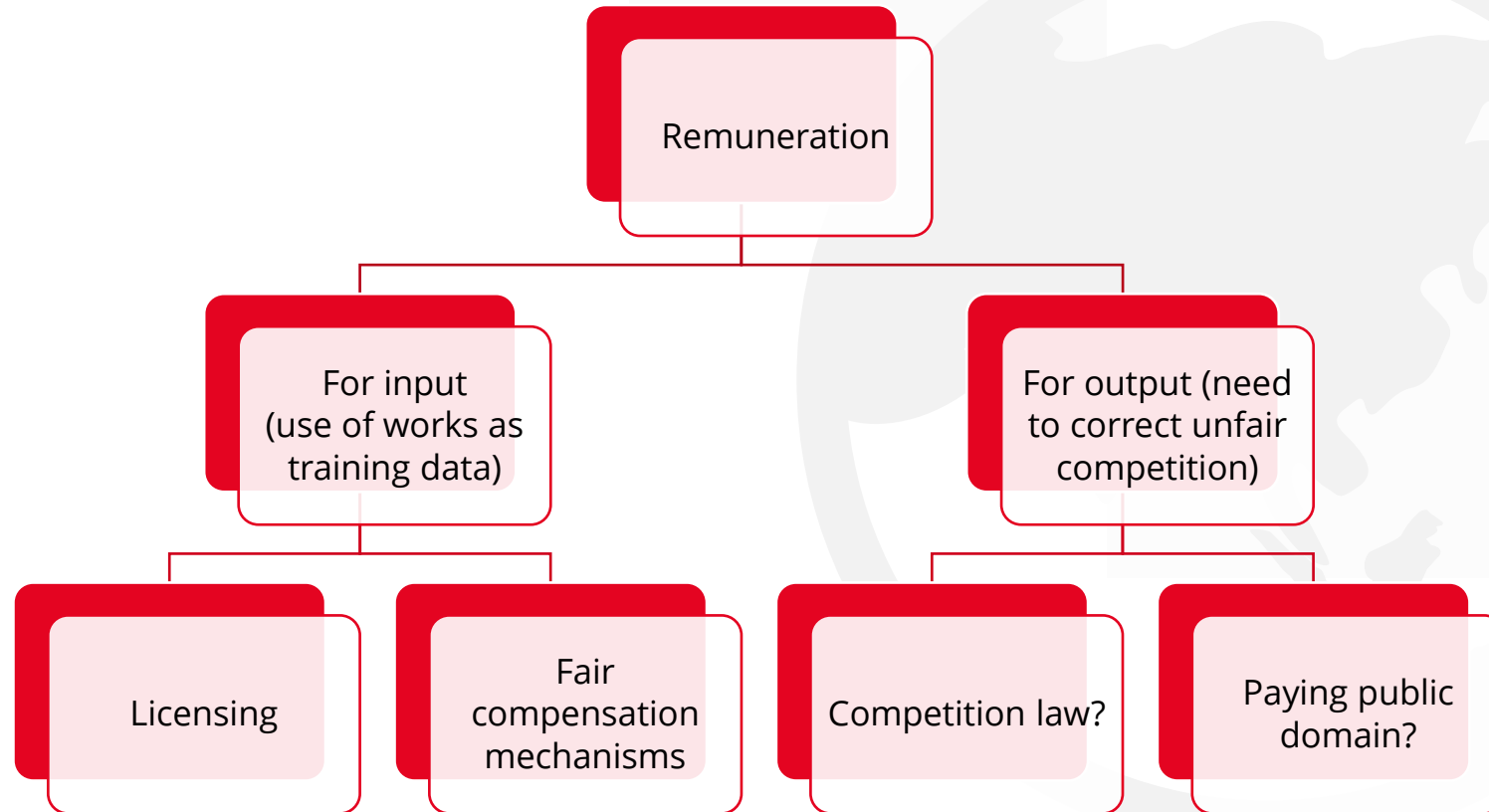
## AI Open Letter

7 principles as basis for human-centered AI regulation that fosters creativity



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# Remuneration - the options





# EU AI Act (2024)

## Key elements



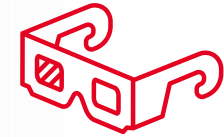
**Applies to foundation models (GPAIs)**



**Ensure compliance with EU copyright**

Providers of general-purpose AI **must include policies to respect copyright** (including opt-out TDM)

**Extra-territorial effect** - applies irrespective of the jurisdiction where the training of the AI model takes place



**Introduces transparency obligations**

Providers of general-purpose AI models required to “draw up and make publicly available **a sufficiently detailed summary**” of the content used for training

Template will be provided by the new EU AI Office

## Entry into force for foundation models – June 2025



# Singapore

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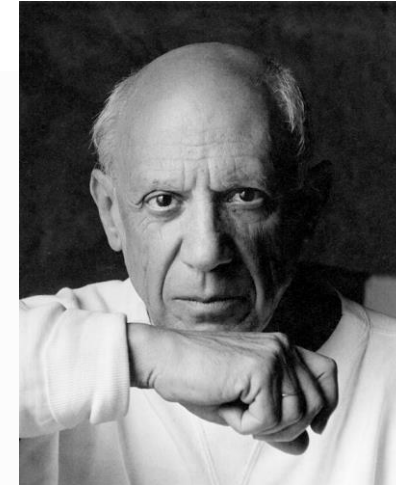
## Open consultations on the regime of exceptions

- Singapore has an exception for computational data analysis (CDA) (Part 5-Division 8 of Copyright Act 2021)
- These provisions allow for the use of copyrighted works for CDA without requiring the permission of the copyright holders, provided that the works are lawfully accessed.
- Recently, a public consultation was opened on copyright exceptions
- We recommend decision makers to narrow the scope of the exception, in line with the recent EU legal framework

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“The artist is a receptacle for emotions that come from all over the place: from the sky, from the earth, from a scrap of paper, from a passing shape, from a spider's web”.

Pablo Picasso



# Thanks!

Leonardo de Terlizzi

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SERVING AUTHORS WORLDWIDE  
AU SERVICE DES AUTEURS DANS LE MONDE  
AL SERVICIO DE LOS AUTORES EN EL MUNDO

