



Before the
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

2026 Special 301 Review

Docket No. USTR-2025-0243

Submitted January 27, 2026

**NEWS/MEDIA ALLIANCE COMMENTS REGARDING 2026 SPECIAL 301
REVIEW—HONG KONG, SOUTH KOREA, SINGAPORE, AND VIETNAM**

The News/Media Alliance (“N/MA”) is a nonprofit organization representing over 2,200 diverse newspaper, magazine, and digital media publishers in the United States, ranging from the largest news and magazine publishers to hyperlocal newspapers, and from digital-only outlets to papers who have printed news for centuries. Covering all subject matter and political viewpoints, the Alliance’s membership accounts for nearly 90 percent of the daily newspaper circulation in the United States, over 500 individual magazine brands, and dozens of digital-only properties.

N/MA welcomes the opportunity to provide these comments to the Office of the United States Trade Representative (“USTR”) in response to the *Request for Comments and Notice of a Public Hearing Regarding the 2026 Special 301 Review*, Docket Number USTR-2025-0243, 90 Fed. Reg. 57,519 (December 11, 2025).

N/MA members keep the communities they serve informed, engaged, and entertained, while employing thousands of hardworking Americans and contributing billions to the U.S. economy. The realities of the digital ecosystem mean that, even though rooted in their local communities, trade and international policy developments can significantly impact publishers’ continued ability to provide high-quality content to their readers. We believe this Administration can and should ensure that its trade priorities safeguard American creative industries and IP that form the backbone of our global influence and cultural strength.

The recent expansion of generative AI poses new and unique opportunities and challenges to local journalism and other creative sectors. Accordingly, our comments focus on recent proposals for expanded text and data mining (TDM) exceptions around the world that pose an existential threat to American intellectual property owners and creative industry workforce by denying adequate and effective IP protections for American creators.

Text and Data Mining Exceptions Undermine American IP Rights and Threaten U.S. Creative Industries

American IP rightsholders rely on strong copyright protections that incentivize investments in the creation of new, original content. A basic tenet of U.S. copyright law is that the rightsholder has the right to control the use of their works. The Copyright Act is clear, rightsholders have the exclusive right to grant or withhold authorization for the use of their content, absent applicable exceptions. However, the recent proliferation of broad proposals for TDM exceptions risks undermining American IP owners' ability to protect their content both locally and globally. These exceptions are sometimes accompanied by a false and harmful assumption that the U.S. copyright system is opt-out, requiring rightsholders to reserve their rights if they want to protect their IP against unauthorized uses, a misconception that we urge this Administration to correct globally. N/MA strongly opposes broad, blanket TDM exceptions that would allow the scraping and use of protected works for unauthorized – often commercial – purposes. U.S. trade policy should unequivocally object to the adoption of broad TDM exceptions so as to protect U.S. IP interests.

For the same reason N/MA opposes suggestions such as those made in relation to the review of the United States-Mexico-Canada Agreement to weaken existing IP protections through a guise of a new annex on artificial intelligence.¹ The Administration should exert global leadership by negotiating deals that drive the continued growth of American AI and creative industries. Far from a zero-sum game, healthy IP frameworks will power mutual success for both sectors. The Administration is rightly focused on ensuring that AI companies pay their share of escalating datacenter costs.² So too, healthy IP laws and marketplace rules must apply to content acquisition, and the government should oppose efforts to subsidize highly capitalized AI companies. Furthermore, such an approach risks inadequate IP protections in Canada and Mexico, harming American creators in foreign markets. Considering the Trump Administration's longstanding and clear support for American creative industries, we urge USTR to reject all such proposals.

¹ See, e.g., Comments of the Computer & Communications Industry Association (CCIA) Regarding the Operation of USMCA at 6-7, Docket No. USTR-2025-0004 (Nov. 2, 2025); Comments of the Technology Trade Regulation Alliance at 2, 5 (Nov. 3, 2025).

² Spencer Kimball, *Trump Wants Tech Companies to Foot the Bill for New Power Plants because of AI*, CNBC (Jan. 16, 2026), <https://www.cnbc.com/2026/01/16/trump-wants-tech-companies-to-foot-the-bill-for-new-power-plants-because-of-ai.html>.

In particular, we highlight recent and planned developments in the following countries:

Hong Kong

In July 2024, Hong Kong’s Commerce and Economic Development Bureau and Intellectual Property Department published a public consultation paper on copyright and artificial intelligence.³ Chapter 4 of the Consultation document proposed the creation of a tailored TDM exception that “should not be restricted to non-commercial research and study.”⁴ Following a consultation period with stakeholders, on February 18, 2025, the Government submitted a discussion paper to the Legislative Council’s Panel on Commerce, Industry, Innovation and Technology, reiterating the Government’s plans to adopt a broad TDM exception.⁵

While noting that “copyright owners or their organizations generally oppose the introduction of the TDM exception, considering that the exception would intervene existing or emerging licensing arrangements in the market, prejudice the interests of copyright owners, and violate the ‘three-step test’ requirement” under the WTO TRIPS Agreement, the discussion paper considers it “necessary to introduce a TDM exception” even for commercial uses.⁶ The stated justification is to foster local AI development, boosting Hong Kong’s competitiveness in the technology sector – all at the expense of American IP rightsholders.

The proposal’s ostensible safeguards – including requiring lawful access, avoiding use of infringing copies, recordkeeping requirements, inapplicability “if relevant licensing schemes are available,” and an opt-out option for rightsholders⁷ – fall short of providing rightsholders sufficiently meaningful control, especially as technical opt-out mechanisms are decentralized, underdeveloped, and inappropriately burden rightsholders. This is especially true here, where opt-out mechanisms and recordkeeping requirements would seemingly be guided by “flexible and non-legally binding codes of practice or guidelines.”⁸ As a result, the proposal has the potential to seriously undermine American IP industries and the fundamental rights of creators and copyright owners in the United States.

³ COMMERCE AND ECONOMIC DEVELOPMENT BUREAU AND INTELLECTUAL PROPERTY DEPARTMENT, Copyright and Artificial Intelligence: Public Consultation Paper (2024), <https://www.ipd.gov.hk/filemanager/ipd/en/share/consultation-papers/Eng-Copyright-and-AI-Consultation-Paper-20240708.pdf>.

⁴ *Id.* at 37.

⁵ COMMERCE AND ECONOMIC DEVELOPMENT BUREAU AND INTELLECTUAL PROPERTY DEPARTMENT, Enhancement of the Copyright Ordinance regarding Protection for Artificial Intelligence Technology Development – Outcomes of Public Consultation and Proposed Way Forward (Feb. 18, 2025), <https://www.legco.gov.hk/yr2025/english/panels/ci/papers/ci20250218cb2-240-4-e.pdf>.

⁶ *Id.* at 7-8

⁷ *Id.* at 11-12.

⁸ *Id.* at 12

South Korea

In 2021, the South Korean National Assembly introduced a bill to amend the country's Copyright Act. Among other changes, the bill would have created a broad TDM exception to facilitate the development of AI models, developers, and industries.⁹ The bill, thankfully, failed to pass the National Assembly before the end of the 21st National Assembly,¹⁰ and the Ministry of Culture, Sports and Tourism has recently indicated the Government is unlikely to move forward following a review finding that similar exceptions in other countries have failed to resolve disputes or protect rightsholders.¹¹

However, according to recent reports, the government is now considering amendments to the Copyright Act that would create a "use first, compensate later" approach, allowing developers to use protected content for AI training without securing prior permission from the rightsholders.¹² As the Korean Association of Newspapers has noted, such a system would make it "difficult to accurately verify 'which works, how much, in what manner, or in which models' AI companies have used," with the compensation "likely to be undercalculated in favor of AI companies," severely harming not only Korean but also American creative industries who make their content available in South Korea.¹³ We urge USTR to monitor and oppose any potential "use first, compensate later" amendments and similar measures that may be introduced during the ongoing or the 22nd National Assembly.

Singapore

Singapore enacted a broad TDM exception in late-2021,¹⁴ allowing TDM for both commercial and non-commercial use purposes.¹⁵ The exception also allows the use of pirated content if the AI developer does not have knowledge of the infringement or if "the use of infringing copies is necessary for a prescribed purpose."¹⁶ Together, the breadth of the exception and the lack of adequate safeguards do not provide sufficient protections to rightsholders, and enable Singaporean developers to misappropriate American IP.

⁹ Kyungsuk Kim, *Korean Copyright Issues in Text Data Mining for Generative AI*, JOURNAL OF AI LAW AND REGULATION (Jan. 2024), <https://aire.lexxion.eu/article/aire/2024/1/8/display/html>.

¹⁰ *Focus on: South Korea*, LEGAL500 BLOG (2024), <https://www.legal500.com/doing-business-in/south-korea/>.

¹¹ *South Korea Unlikely to Adopt TDM Exemption for AI Developers, Ministry Says*, THE LEGAL WIRE (Nov. 27, 2025), <https://thelegalwire.ai/south-korea-unlikely-to-adopt-tdm-exemption-for-ai-developers-ministry-says/>.

¹² Chang Yoon-seo, *Gov't Committee Faces Backlash After 'Use First, Settle Later' AI Data Training Proposal*, KOREA JOONGANG DAILY (Dec. 29, 2025), <https://koreajoongangdaily.joins.com/news/2025-12-29/national/socialAffairs/Govt-committee-faces-backlash-after-use-first-settle-later-AI-data-training-proposal/2488424>.

¹³ Yoon Soo-jung, *Newspaper Association Condemns AI 'Use First, Compensate Later' Plan*, THE CHOSUN DAILY (Jan. 6, 2026), <https://www.chosun.com/english/travel-food-en/2026/01/06/3JWU7C4PHRAUTH7W37GGFUZGBU/>.

¹⁴ Bryan Tan & Hagen Rooke, *Entertainment and Media Guide to AI: Text and Data Mining in Singapore* (Feb. 5, 2024), <https://www.reedsmith.com/en/perspectives/ai-in-entertainment-and-media/2024/02/text-and-data-mining-in-singapore>.

¹⁵ *Id.*

¹⁶ *Id.*

Vietnam

On December 10, 2025, the Vietnamese National Assembly adopted the country’s first-ever AI law, together with amendments to the Law on Intellectual Property and the Law on High Technology.¹⁷ While we are not aware of an authoritative English translation of the amendments, based on reports, the changes, subject to forthcoming guidance, would allow the use of lawfully published and publicly available materials for AI use purposes as long as such use does not unreasonably prejudice rightsholders’ legitimate interests and the resulting outputs do not infringe copyright or other IP rights.¹⁸ The scope and application of the exception will depend in large part on the implementing regulations, and N/MA urges the Administration to monitor the interpretation and application of these amendments, and advocate for an approach that protects American IP.

Other

Other countries are considering introducing similar TDM exceptions that would seriously harm American creative industries. While there is considerable uncertainty as to whether any countries will eventually move ahead with such proposals and when, N/MA urges the USTR to monitor the situation across priority markets and strongly oppose these measures as they emerge in order to protect American IP.

Voluntary Licensing Solutions Support Innovation and American IP

Voluntary licensing forms the foundation of American IP framework, allowing rightsholders to freely choose who to license to and on which terms. This free market approach protects American innovation and IP, and has facilitated the rise of U.S. creative industries. We urge the Administration to safeguard the principles of voluntary licensing and monitor any developments and proposals for state-controlled or compulsory licensing schemes, such as that recently

¹⁷ Thai Khang, *New AI Law Lays Foundation for Vietnam to Master AI Technology*, VIETNAMNET GLOBAL (Dec. 15, 2025), <https://vietnamnet.vn/en/new-ai-law-lays-foundation-for-vietnam-to-master-ai-technology-2472111.html>.

¹⁸ See, Hugh Stephens, *Vietnam’s New IP Law: The General Direction Makes Sense but Regulatory Details Will Be Key*, HUGH STEPHENS BLOG (Jan. 12, 2026), <https://hughstephensblog.net/2026/01/12/vietnams-new-ip-law-its-general-direction-makes-sense-but-the-regulatory-details-will-be-key/>; *Vietnam’s National Assembly Approves Amended Law on Intellectual Property, Marking a Shift Toward Commercialization and Innovation*, WINTER IP (Dec. 22, 2025), <https://winterip.com/news-insights/news-blogs/quoc-hoi-thong-qua-luat-so-huu-tri-tue-sua-doi-tai-san-tri-tue-duoc-dinh-gia-mua-ban-the-chap/> (“Lawfully published and publicly accessible information may be used as input for AI training, provided that the outputs generated by AI do not infringe copyright or other intellectual property rights.”); *Vietnam Turns Intellectual Property into Bankable Assets in New Law*, VIETNAMPLUS (Dec. 10, 2025), <https://en.vietnamplus.vn/vietnam-turns-intellectual-property-into-bankable-assets-in-new-law-post334070.vnp> (“Legally published and publicly available data can be used to train AI models, provided the resulting outputs do not violate existing IP rights.”); Tom Sedzro, *Vietnam Amends Intellectual Property Law: Key Changes for Businesses*, VIETNAM BRIEFING (Dec. 23, 2025), <https://www.vietnam-briefing.com/news/vietnam-amends-intellectual-property-law-key-changes-for-businesses.html/> (“Permits use of lawfully published, publicly accessible text and data (including AI training) for research and experimentation, subject to right-holder safeguards and forthcoming rules.”).

proposed in India.¹⁹ While the ability of rightsholders to monetize their works should be safeguarded, the recent rapid proliferation of content licensing deals for AI uses demonstrates that the marketplace is currently well-positioned to provide and scale licensing for AI training and other uses and to respond to technological and market changes. This is especially important to allow American companies to license for global uses, avoiding unnecessary fragmentation and inefficiencies.

Competition and AI Transparency Measures Benefit American IP and AI Developers

Over the past six years, many countries and regions have adopted measures aimed at protecting the digital marketplace against market abusive practices and to increase AI model transparency. These measures include the EU's Directive on Copyright in the Digital Single Market, the Digital Markets Act, and the AI Act, Australia's News Media Bargaining Code, and Canada's Online News Act. Reflecting broader concerns over the anticompetitive practices of Big Tech, the uncompensated taking of protected intellectual property, and the combined effect these practices have on rightsholders and competitors, these laws are largely beneficial to American rightsholders, consumers, and Little Tech. In particular, these measures foster innovation, protect investments in new, original content, and facilitate marketplace negotiations between IP owners and AI developers. N/MA again urges you to reject unsubstantiated arguments framing these laws as anything but pro-IP measures, noting the substantial support they enjoy among the American IP community.

Thank you for the opportunity to provide these comments to inform the drafting of the 2026 Special 301 Review. We stand ready to answer any questions you may have.

¹⁹ DEPARTMENT FOR PROMOTION OF INDUSTRY AND INTERNAL TRADE MINISTRY OF COMMERCE & INDUSTRY OF THE GOVERNMENT OF INDIA, Working Paper on Generative AI and Copyright: Part 1, <https://www.dpiit.gov.in/static/uploads/2025/12/ff266bbeed10c48e3479c941484f3525.pdf>.