

# Emerging Licensing Models

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# Recent Examples

- Writers Guild Settlement
- OpenAI – AP, Shutterstock, Axel Springer
- Reddit – Google

# Writers Guild

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- In Sep. 2023, the Writers Guild of America and major movie studios (under the Alliance of Motion Picture and Television Producers) resolved a strike that lasted 146 days.
- Among the sticking points:
  - Compensation
  - Use of AI
  - Residuals for streaming content

# Writers Guild

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- With respect to the use of AI, the parties established specific guidelines in the new labor agreement and included several key protections for writers:
  - AI cannot be used to write or rewrite literary material
  - AI-generated material will not be considered source material
  - Companies must disclose to writers whether any materials given to them incorporate AI-generated material
  - Writers may use AI in their writing process as long as the studio agrees and the writer follows applicable policies

# OpenAI Deals: Associated Press

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- In July 2023, OpenAI licensed the Associated Press's archive of news stories going back to 1985.
- 2-year deal
- AP hopes to develop best practices around gen AI for other newsrooms
- Financial terms not disclosed

# OpenAI Deals: Axel Springer

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- As of December 2023, Axel Springer will let OpenAI use Axel content to train its AI models
- Axel Springer owns Business Insider, Politico, Bild, Welt, etc.
- Financial terms not disclosed

# OpenAI Deals: Shutterstock

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- As of July 2023, Shutterstock will let OpenAI use Shutterstock's content (image, video, music) to train its AI models
- Shutterstock gets priority access to DALL-E
- 6 year term
- Financial terms not disclosed

# Reddit - Google

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- Feb. 2024: Reddit enters deal with Google to make its content available for AI training
- \$60m per year (as reported)
- Reddit IPO

# But remember: IBM

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- 2019: IBM used millions of images from Flickr to create a dataset aimed at making facial recognition systems less biased.
- IBM's "Diversity in Faces" dataset contained a million labeled Creative Commons-licensed photos downloaded from Flickr. Images could be used for **noncommercial** purposes.
- Legally OK, but people were angry when told their photos were used to train facial recognition systems.

# Alternative Model: ASCAP

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- American Society of Composers, Authors, and Publishers (ASCAP): nonprofit that licenses public performance rights of musical works
- ASCAP collects licensing fees from users of music created by ASCAP members, then distributes them back to members as royalties.
- > 16m works
- 2022: > \$1.5 billion in revenues

# Result?

- **Offers to license** will be important factor in fair use analyses when plaintiffs assert copyright infringement in the U.S.
- Individual creators are still not compensated today.
- Aggregated content solutions (like ASCAP) would need buy-in from major aggregators of text, images, video, etc.

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THANK YOU!