



Comments of the Recording Industry Association of America on the National Institute of Standards and Technology Artificial Intelligence Risk Management Framework Initial Draft
Dated March 17, 2022

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The Recording Industry Association of America (“RIAA”) welcomes this opportunity to provide comments to National Institute of Standards and Technology (“NIST”) on its Artificial Intelligence Risk Management Framework – Initial Draft dated March 17, 2022 (“AI RMF”).

The RIAA is the trade organization that supports and promotes the creative and commercial vitality of music labels in the United States, the most vibrant recorded music community in the world. Our membership – which includes several hundred companies, ranging from small-to-medium-sized enterprises to global businesses – creates, manufactures, and/or distributes sound recordings representing the majority of all legitimate recorded music consumption in the United States. In support of its mission, the RIAA works to protect the intellectual property and First Amendment rights of artists and music labels; conducts consumer, industry, and technical research; and monitors and reviews state and federal laws, regulations, and policies.

Introduction

As noted in our September 2021 comments, human creative expression is at the core of our members’ businesses and is vital to our nation’s culture and economy. The United States boasts over one million revenue-generating sound recording artists and songwriters.¹ Overall, the music industry contributes \$170 billion to the nation’s economy, supports 2.47 million jobs, and accounts for over 236,000 businesses in the United States.² At the core of all this activity is the creativity of sound recording artists, songwriters, musicians, producers, recording engineers, and countless other participants in the music industry that bring music to life. Their

¹ Source: <http://50statesofmusic.com/?USImpact>.

² Source: <http://50statesofmusic.com/?USImpact>.

creative output is protected by copyright, which is both recognized in the U.S. Constitution³ and in the U.N. Universal Declaration of Human Rights.⁴

The process of making the music we describe above is full of experimentation, innovation, and technological experimentation. Our members are constantly working with artists to develop and use new tools and techniques to spark their creativity, hone their sound, and better engage with music fans. It is in this light, and in consideration of how the AI RMF relates to the creation, use, and exploitation of music, that we offer the following comments.

Comments

The AI RMF does not appropriately cover and address AI risk with the right level of specificity for various use cases, particularly with respect to copyrighted works.

While the AI RMF notes issues with the “exfiltration” of intellectual property from an AI system, it does not expressly discuss intellectual property risks associated with training materials used to train that AI system. To address this concern and to avoid harm to rights holders and mitigate the risk to AI developers, the AI RMF should acknowledge that training materials may be subject to copyright, and the AI RMF should promote as a best practice that AI developers obtain licenses or other clearances to use any copyrighted training materials, or that they instead rely on public domain materials.⁵

In addition, while we appreciate that the AI RMF makes a strong call for transparency generally, it should have a more specific recommendation concerning training materials. As noted in our prior comments, to help ensure transparency and fairness, the AI RMF should specifically call on AI developers to maintain adequate records of what copyrighted works or other materials are being ingested by the AI process and for what purposes, copies of the licenses or clearances the developer has obtained to use the works or materials for such purposes, and what are the outputs of the AI process.

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We thank NIST for the opportunity to share these views on what should be included in the AI RMF. We look forward to continuing this conversation with NIST and other policy makers as AI technology and its impact on the marketplace and society evolves.

³ U.S. Const. art. 1, § 8, cl. 8 (“To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;”).

⁴ art. 27, § 2 (“Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author”).

⁵ It is insufficient to merely recommend that “contingency processes are in place to address potential issues with third-party data or AI systems.”