

In 1776, the authors of the Declaration of Independence declared that the protection of individual rights was the central purpose of government. Nearly two and a half centuries later, the United States faces a new question the Founders could not have imagined: what happens when machines learn from a corpus aggregating the creative labor of millions, and then generate enormous wealth for corporations while the human creators receive nothing? Artificial intelligence companies such as OpenAI, Google, Anthropic, and Microsoft promise unprecedented innovation, efficiency, and access to knowledge. Yet they also challenge foundational constitutional commitments to free speech, property rights, and personal liberty. AI regulation must reflect these commitments by ensuring that innovation does not come at the expense of the very freedoms the Constitution exists to protect. For that reason, AI companies should be required by law to compensate authors whose copyrighted works are used to train commercial AI systems, subject to reasonable limits that preserve free expression and technological progress.

The Constitution is not hostile to innovation. On the contrary, Article I, Section 8 explicitly empowers Congress “to promote the Progress of Science and useful Arts” by securing exclusive rights to authors and inventors for limited times. This intellectual property clause recognizes a simple but powerful principle: creativity flourishes when creators are rewarded. AI companies argue that training models on massive collections of books and articles is merely an extension of reading and learning, activities protected by the First Amendment. But this analogy breaks down when learning becomes monetization at industrial scale. Human readers do not ingest millions of copyrighted works in seconds and then sell derivative outputs that compete with the original creators. When AI systems do precisely that, constitutional property rights are implicated.

The Supreme Court's decision in *Harper & Row v. Nation Enterprises* (1985) reinforces this distinction. In that case, the Court held that unauthorized commercial use of copyrighted material, even when it involved news reporting, violated the author's rights because it appropriated the "heart" of the work for profit. Similarly, AI companies extract the expressive value of copyrighted texts to build profitable products. Even if the output is not verbatim copying, the underlying use is commercial, systematic, and dependent on protected expression. To ignore this reality would hollow out the constitutional promise that authors deserve control over and compensation for their labor.

At the same time, any regulatory scheme must respect the First Amendment's robust protection of free speech. The Court's decision in *Sony Corp. v. Universal City Studios* (1984) cautions against suppressing new technologies simply because they disrupt existing business models. AI tools provide undeniable social benefits: they democratize access to information, enhance productivity, and enable new forms of creativity. Overregulation could chill innovation, entrench large incumbents, and deprive society of valuable tools. Therefore, compensation requirements should not resemble blanket licensing fees or prohibit training altogether. Instead, they should function more like compulsory licensing regimes already familiar in copyright law, such as those governing music broadcasting. This approach would allow AI development to continue while ensuring that authors share in the economic value generated from their work.

Privacy rights also demand attention. The Constitution's protection against unreasonable searches and seizures, interpreted through cases like *Carpenter v. United States* (2018), reflects a broader concern with how personal data is collected and used in the digital age. Many AI systems are trained not only on published books but also on personal blogs, online forums, and user-generated content never intended for large-scale commercial exploitation. Without

regulation, AI companies can amass vast datasets that erode individual control over personal expression. Requiring transparency and compensation would help restore a measure of consent and dignity to the data economy, aligning AI practices with constitutional values of personal liberty.

Critics argue that compensating authors is impractical and would stifle smaller AI developers. But impracticality has never been a constitutional justification for denying rights. Similar arguments have been made against enforcing labor laws, environmental protections, and civil rights statutes. Moreover, the absence of compensation disproportionately harms individual writers, journalists, and scholars while enriching a small number of powerful technology firms. This imbalance contradicts the Declaration of Independence's vision of a society grounded in fairness rather than concentrated privilege.

The positive effects of AI are real and significant. AI can assist doctors, support students, and accelerate scientific discovery. Yet the negative effects are equally real: economic displacement, erosion of creative professions, and unchecked corporate power. The Constitution does not demand that society choose between innovation and rights. It demands balance. As Justice Louis Brandeis famously observed, the Founders sought to protect Americans not only from tyranny of government but also from the "tyranny of the powerful." In the AI era, that power increasingly resides in private corporations that operate faster than the law.

As America approaches its 250th birthday, the question is not whether the Constitution can accommodate artificial intelligence, but whether we will honor the values it enshrines. Requiring AI companies to compensate authors affirms that free speech does not mean free exploitation, that progress does not excuse appropriation, and that human creativity remains

worthy of protection even in an age of machines. By grounding AI regulation in constitutional principles, the nation can ensure that technological advancement strengthens, rather than undermines, the freedoms that define the American experiment.

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