

Artificial Intelligence, Constitutional Values, and the Question of Compensation

As the United States approaches its 250th anniversary, debates about emerging technologies invite reflection on the nation's founding principles. Artificial Intelligence ("AI") tools are among the most transformative innovations of the modern era. These systems are trained on vast amounts of text, including books, articles protected by intellectual property law, often the product of years of human creativity and expertise. AI companies profit by selling access to these tools or by monetizing user data, raising questions about fairness, property rights, and constitutional values. The freedoms articulated in the Declaration of Independence and enshrined in the U.S. Constitution - particularly free speech, privacy, and property rights - should guide the regulation of AI. While AI offers substantial social benefits, AI companies should be required by law to compensate authors whose copyrighted works are used in training these systems, to preserve the constitutional balance between innovation and individual rights.

The Declaration of Independence emphasizes natural rights (life, liberty, and the pursuit of happiness) (National Archives, 2025). Implicit in these ideals is respect for individual labor and creativity. The Constitution further reflects this commitment through the Intellectual Property Clause, which empowers Congress "to promote the Progress of Science and useful Arts" by securing exclusive rights to authors and inventors for limited times ("Overview of Congress's Power over Intellectual Property | Constitution Annotated | Congress.gov | Library of Congress," n.d.). This clause reveals a balance: society benefits from the dissemination of knowledge, but creators must be rewarded to encourage continued innovation (Wex Definitions Team, 2023). AI challenges this balance by enabling companies to extract value from copyrighted works at an unprecedented scale, often without the authors' consent.

Support for unrestricted AI training invokes the First Amendment and argues that using texts to train models is a form of protected speech. Free speech is a cornerstone of American constitutionalism, and restrictive regulation could chill innovation and public access to information. AI systems enhance education, improve productivity, increase accessibility for people with disabilities, and democratize access to knowledge (“Artificial Intelligence, Free Speech, and the First Amendment | the Foundation for Individual Rights and Expression,” n.d.). These are positive effects that align with the constitutional goal of promoting general welfare.

However, free speech has never been absolute. Copyright law is a constitutionally sanctioned limitation on speech, justified by the need to protect creative labor. In *Harper & Row, Publishers, Inc v. Nation Enterprises* (1985), the Supreme Court held that unauthorized publication of copyrighted material - even when it concerned matters of public interest - could infringe on the author’s rights (Oyez, n.d.-b). The Court emphasized that the right to control the first publication of one’s work is a core component of copyright protection. This reasoning suggests that the uncompensated use of authors’ works to build profitable AI systems raises constitutional concerns, even if the resulting technology produces social benefits.

Another time where constitutional concerns were weighed against social benefits was in *Feist Publication, Inc v. Rural Telephone Service Co.* (1991), in which the Court clarified that copyright protects original expression, not mere facts. While AI companies argue they are not reproducing works verbatim but instead learning abstract patterns, those patterns are derived from original expression (Oyez, n.d.-a). The creative choices embedded in language - tone, structure, argument, and style - are what make works valuable. Training AI on material without compensation risks undermining the incentive structure that *Feist* and the Intellectual Property Clause were designed to protect.

A directly relevant case is *Authors Guild v. Google, Inc.* (2015), in which the Second Circuit held that Google's digitization of books for its search function constituted fair use. The court emphasized that Google's use was "transformative" and didn't substitute for the original works ("*Authors Guild v. Google, Inc.*, No. 13-4829 (2d Cir. 2015)," 2015). AI companies rely on this decision to justify their practices. However, AI systems differ in important ways. Unlike Google Books, which displayed only limited excerpts, generative AI can produce outputs that closely mimic the style or substance of individual authors, competing with them in the marketplace. When AI-generated content substitutes for human-created work, the economic harm to authors becomes more direct.

Requiring AI companies to compensate authors wouldn't eliminate the benefits of AI, but it would internalize the costs of innovation. Such a system could resemble licensing regimes in music, where creators are paid when their work is used commercially. This approach respects property rights while allowing technological development to continue. It could advance equity regarding publishing, where companies generating enormous profits from collective human knowledge should share those gains with the individuals whose labor made that knowledge possible.

Privacy concerns further support thoughtful regulation. AI systems trained on large datasets absorb sensitive personal information embedded in text, threatening individual autonomy and dignity. The Internet has posed significant privacy challenges, as evidenced by the Meta case, where the company was fined \$725 million for improperly handling user data, highlighting the scale of risks when large corporations mishandle personal information (Ahn, 2022). With AI's ability to process vast amounts of data at an unprecedented rate, these concerns are compounded, adding new layers of complexity to a fragile privacy landscape. The

Constitution's protections for privacy, though not explicitly stated, have been recognized by the Supreme Court as essential to liberty. Compensation and consent mechanisms could incentivize companies to be more careful about the data and how they use it.

In conclusion, the constitutional principles that have guided the United States for nearly 250 years remain highly relevant in the age of Artificial Intelligence. AI offers benefits, but unchecked exploitation of intellectual property risks eroding the rights of authors and undermining the incentive to create. Grounded in cases such as *Harper & Row, Feist*, and *Authors Guild v. Google*, a constitutional analysis supports requiring AI companies to compensate authors whose works are used in training. Thereby, the nation can honor its commitments to free speech, property rights, and human creativity - ensuring that technological progress serves the people, rather than replacing or exploiting them.

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