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Note on Mexican Federal Copyright Law Reform 2026

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On May 15, 2026, one day after its publication in the Official Federal Gazette, the amendment to the Federal Copyright Law (LFDA) regarding the rights of performing artists entered into force. The reform arrived with a politically attractive narrative: shielding dubbing voice actors —and artistic talent in general— from the cloning of image and voice through artificial intelligence (AI). The demand was legitimate. The result, however, is a provision that treats the symptom without understanding the disease, one that symbolically protects the artist from the machine but, in the process, leaves them —along with every non-artist individual— unprotected against other persons.

Worse still, in its eagerness to become a pioneer country in regulating AI, the legislature acted without even defining the technology it purports to regulate and without equipping the legal system with the instruments needed to produce certainty. In the pages that follow, we analyze four of the most pressing problems with this reform.

I. ARTICLE 87 AND THE SILENT CONTRACTION OF THE PERSONAL SCOPE.

Original Text	Amended Text
Article 87.- The portrait of a person may only be used or published with their express consent, or with the consent of their representatives or the holders of the corresponding rights. The authorization to use or publish the portrait may be revoked by the grantor who, if applicable, shall be liable for any damages that such revocation may cause.	**Artículo 87.- The image, including the voice, of performing artists, as well as of their characters**, may only be used or published with their express consent, or with the consent of their representatives or the holders of the corresponding rights.
[NO COUNTERPART]	**The protection referred to in the preceding paragraph covers outputs generated by artificial intelligence systems or any other technology.**
[NO COUNTERPART]	**The authorization may be revoked for justified cause by the grantor, unless the right has been exhausted pursuant to the last paragraph of Article 118 and, if applicable, the grantor shall be liable for any damages that such revocation may cause.**

When, in exchange for remuneration, a person consents to be portrayed, it shall be presumed that they have granted the consent referred to in the preceding paragraph and shall not have the right to revoke it, provided that the portrait is used in the terms and for the purposes agreed upon.	**When a performing artist has received specific remuneration for the use of their image, it shall be presumed that consent has been granted solely for the purposes and modalities expressly agreed upon. Any other use shall require new authorization and remuneration.** .
The consent referred to in this article shall not be required when the portrait of a person forms a minor part of a group or when the photograph is taken in a public place for informational or journalistic purposes.	The consent referred to in this article shall not be required when the matter involves **the image of a performing artist** who forms a minor part of a group, or when the image is captured in a public place, or for informational or journalistic purposes.
[NO COUNTERPART]	**No violation of the rights recognized in this article shall be deemed to have occurred when the use of the image or voice of the performing artist is carried out for purposes of parody, satire or creative imitation, or when such use does not constitute a cloning or impersonation that misleads the public or whose purpose is to substitute the professional services of the artist in the market through the use of artificial intelligence systems or any other technology or by any other means.**

The rights established for portrayed persons shall last 50 years after their death.	The rights recognized in this article shall remain in force in accordance **with the provisions of Article 122 of this Law.**

No one announced it as such, but the amendment to Article 87 of the LFDA contains one of the most far-reaching changes in the entire reform: the reduction of the universe of protected persons.

The original text protected the portrait of «any person.» The amended text protects the image and voice of «performing artists.» The contraction is explicit. Its consequences, however, were not adequately considered during the legislative process.

As of May 15, 2026, athletes, journalists, academics, opinion leaders, or any person appearing in audiovisual productions who does not qualify as a performing artist under the LFDA falls outside the scope of protection of this article. To claim for the unauthorized use of their image, such persons must resort to civil law, where they may only claim compensation for moral damages under civil legislation; the LFDA may no longer be invoked for their protection.

The change of forum is not neutral for those persons not covered by the category of «performing artists»: the special regime of the LFDA established a minimum parameter of 40% damages for every person; the general civil regime does not.

A. The Other Side of the Coin: An Unexpected Benefit for Producers and Advertisers?

That said, it would be inaccurate to present the personal scope contraction as a harm to all. For audiovisual producers, advertising agencies, and media companies specifically, the change could, depending on the case, prove operationally favorable.

Under the previous regime, any person appearing in a production could bring a claim under the LFDA. Under the amended regime, those who do not qualify as performing artists must turn to civil law. This reduces, in principle, the potential financial exposure arising from unauthorized uses of image: litigating solely under civil law, without the 40% aggravating factor, is a significantly less burdensome starting position for the producer.

However, the equation is not automatic. The amended Article 87 fails to clarify whether protection follows the performing artist regardless of the context in which their image and voice are used, or only when their image is tied to the exercise of their interpretive or performing activity. Under a restrictive interpretation, the article would only protect the singer acting as a singer, the actor acting as an actor. Under a broad interpretation, any use of the image of anyone holding that professional status would be covered.

The modifications to the article in question are illustrative of the structural problems of the reform. In an effort to protect performing artists, the reform ends up leaving that very group in legal uncertainty while simultaneously reducing the legal protection tools available to the rest of the population.

Furthermore, it must be noted that any attempt to adopt a restrictive reading of the amended Article 87 must be made with full awareness and appropriately tailored legal advice.

This ambiguity, read under the new interpretive rule of Article 120 of the LFDA —which requires that any contractual doubt be resolved in favor of the artist— will be resolved in litigation in favor of the performer. Consequently, the apparent operational advantage for the producer is real but will depend on the argument that can be made, where applicable, as to whether the person depicted can or cannot be classified as a performing artist.

Before assuming that a particular use of image falls outside the LFDA regime because the person involved is not an artist, or outside the scope of Article 87 because it is not linked to interpretive activity, a case-by-case analysis will be required. The reform has opened interpretive spaces that can be navigated with proper legal advice.

B. The Second Paragraph of Article 87: Poor Legislative Drafting Regarding AI.

The second paragraph of the amended Article 87 provides that the protection of image and voice «covers outputs generated by artificial intelligence systems or any other technology.» The intent is understandable. The drafting, however, is deficient.

The LFDA already required, prior to the reform, express authorization for the use or publication of a person's image. That requirement did not depend on the technical means used to produce the representation, but on the legally relevant fact: that the image was used, reproduced, or published without consent. In that sense, if an artificial image, voice, or representation —for example, a deepfake— is disseminated without authorization from the identifiable person, the legal problem was already covered by the prior rule: the use of the image required express consent.

Therefore, protection against the cloning of image or voice through artificial intelligence did not require a new paragraph. The technological neutrality of the LFDA already allowed it to cover present and future media without needing to name them. What the addition introduces is not a previously nonexistent protection, but rather an express reference to AI —without defining it— and to the «outputs generated» by it —without specifying their scope—. The inclusion therefore has more declarative than normative value and may generate interpretive uncertainty where previously it sufficed to apply the general rule of express authorization.

What is a «generated output?» Any output from a system that has processed data including the artist's image or voice, or only one that reproduces their identity in a recognizable manner? What level of technological intervention is required for a system to »be» artificial intelligence for purposes of the LFDA? The provision does not say. The catch-all clause —«or any other technology»— confirms the uncertainty: if the legislature had confidence in its definition of AI, it would not need to include the principle of technological neutrality at the same time as it legislates against it, driven by its unnecessary compulsion to try to be specific about AI.

II. ARTICLE 118 AND THE EXHAUSTION THAT SHOULD NOT EXIST

If the problem with Article 87 is what it eliminated, the problem with Article 118 is what it introduced: a rights exhaustion mechanism that contradicts the internal logic of the LFDA, international standards on neighboring rights, and the most elementary legal common sense.

Article 118 of the LFDA is part of the neighboring rights regime for performing artists.

In general terms, this provision recognizes in such artists the right to authorize or prohibit certain acts of exploitation of their performances or executions, including their fixation, reproduction, public communication, distribution, making available, and, with the reform, certain acts of transformation through AI systems or other technologies.

The last paragraph of Article 118 provides as follows:

> “Estos derechos se consideran agotados una vez que el artista intérprete o ejecutante haya autorizado la incorporación de su actuación o interpretación en una fijación visual, sonora o audiovisual, cuando las personas usuarias, sobre las cuales se haya autorizado la fijación de la interpretación y que utilicen con fines de lucro dichos soportes materiales, efectúen el pago correspondiente previo a la primera comunicación pública, salvo en los casos de productores de fonogramas, videogramas o audiogramas, quienes podrán realizar el pago de conformidad a los acuerdos entre las partes.”

The traditional logic of rights exhaustion operates upon the commercial exploitation of an already fixed work or performance. Once the performance has been incorporated into a medium and that medium enters commerce, the artist's exclusive rights to authorize or prohibit certain uses are transformed —without disappearing— into a right of simple remuneration. This is established by Article 12 of the Rome Convention, Article 15 of the WIPO Performances and Phonograms Treaty (WPPT) and, consistently, Article 133 of the LFDA itself.

What the new paragraph of Article 118 appears to do is something radically different: link exhaustion not to actual commercial exploitation, but to the authorization of the fixation. That is, the right would be extinguished or exhausted from the moment the artist authorizes that their performance or execution be incorporated into a visual, sound, or audiovisual recording, even before any public or commercial exploitation exists that would justify speaking of exhaustion.

The legal absurdity is evident: a song or a scene is recorded —an act that constitutes the fixation— and, by that very act, the artist's neighboring rights over that performance would be exhausted before the phonogram, videogram, or audiovisual is published, distributed, or exploited in any way.

The amended Article 118 produces a right that dies before it is born: exhaustion occurs upon fixation, before there is even any exploitation to exhaust.

The legislature's intention was to protect artists from a nonexistent harm: the supposed "loss" of rights once the exclusive regime to authorize or prohibit their performances/executions was exhausted. The chosen remedy ends up generating new ailments. The provision conflates, without distinguishing, legally distinct concepts: authorization, fixation, exploitation, public communication, exhaustion, and payment of consideration. The result is a provision that is impossible to understand and difficult to apply with any degree of certainty.

III. THE FRAGMENTATION OF THE AI REGIME: FOUR ARTICLES, NO SYSTEM.

The reform distributes references to artificial intelligence across four separate provisions: the second paragraph of Article 87 (image and voice vis-à-vis AI), Section VII of Article 118 (the artist's right to authorize the transformation of their performance through AI), Article 121 (prohibition on audiovisual producers), and new Article 305 Bis of the Federal Labor Law (labor prohibition with penalties ranging from one thousand to five thousand times the daily value of the UMA, doubled in cases of recidivism).

The problem is not the multiplicity of provisions. The problem is that none of them defines AI, none refers to a technical reference framework, and none establishes criteria for determining when a system «is» AI for purposes of the law. Each article uses different terminology to refer, in substance, to the same phenomenon: «artificial intelligence systems,» «computational technological tools,» «any other technology,» «AI models.» Four ways of saying the same thing without committing to any of them.

Generative AI operates at two moments that are legally distinct and require different responses.

The first is training: models are built from massive data corpora that include works, performances, images, and voices. The legally relevant question at this stage is whether the incorporation of a work or performance into the training corpus constitutes an act of reproduction under Article 27, Section I of the LFDA, and whether that act is or is not covered by any of the exceptions provided in the law. The reform is completely silent on this point.

The second is output generation: the model produces content that may be functionally equivalent to the original work or performance, may substitute the rights holder in the market, may induce confusion as to its authorship, or may simply incorporate traits of the original without being indistinguishable from it. The reform partially addresses this second moment —cloning, impersonation— but without sufficient technical precision.

The European Union Artificial Intelligence Regulation (AI Act, Reg. 2024/1689) defines «AI system» with operational technical criteria in its Article 3.1. Directive 2019/790 on copyright in the digital single market distinguishes between the text and data mining exception for research and the commercial exception with opt-out, thereby regulating the input problem with precision. The Mexican reform does neither of these things. It does not define, does not distinguish, does not regulate the input.

In the absence of a legislative definition, the determination of whether a system «is» AI for purposes of the LFDA falls to three actors: the National Copyright Institute in administrative proceedings, arbitrators in commercial arbitrations, and judges in civil litigation. None has a technical mandate. None has normative reference criteria. None can anticipate how the others will rule.

This is not technological neutrality. Technological neutrality is a deliberate tool that formulates rights in sufficiently abstract terms to survive technical evolution. What the reform produces is something different: unbounded discretion disguised as normative openness. The foreseeable result is uncertainty for those who most need clarity: the talent entering contracts and the companies producing content.

Here is the irony: the reform that came to protect the artist from the machine ended up handing the power to define what the machine is to whoever resolves the specific case.

In this context of regulatory uncertainty, specialized legal advice and case-by-case analysis will be equally indispensable. Each project, contract, authorization, use of image or voice, and technological process must be reviewed individually to determine whether it falls within the scope of the reform, what authorizations are required, and what specific risks may arise from its exploitation.

IV. THE PRO-ARTIST RULE OF ARTICLE 120 AS A RISK AMPLIFIER:

The amended Article 120 provides that «in cases of doubt regarding contractual clauses, the interpretation most favorable to the performing artist shall prevail.» The pro-artist rule has its proper domain: in adhesion contracts, in relationships with evident bargaining imbalance, in transactions where talent lacks adequate legal representation, the protection makes sense.

The problem is that the rule of Article 120 acts as an amplifier of all the ambiguities the reform left unresolved. Every undefined term in Article 87 — «generated outputs,» «cloning,» «impersonation»—, every gap in Article 74 — which indicators apply, how consideration is updated—, every obscurity in Article 118 will be resolved, in the event of litigation, in favor of the artist.

For producers, advertisers, and media companies, the correct response to this rule is not to seek formulas to circumvent it. It is exactly the opposite: maximum contractual specificity. Exhaustively defined territories, precise terms, authorizations disaggregated by modality of use, consideration update methodologies agreed in writing, AI-clearance protocols prior to any production involving the use of a talent's image or voice.

V. THE NEED FOR CASE-BY-CASE ANALYSIS:

The reform arrived without sufficient definitions, without a clear transitional regime, and without guidance for those who produce, contract, exploit, or distribute audiovisual works. In this context, there are no automatic answers: each contract, authorization, use of image or voice, and technological process must be reviewed in light of its specific circumstances.

For production companies, advertisers, platforms, agencies, and media companies, the question is no longer solely whether they may use a given image, performance, or AI tool, but rather under what conditions, with what authorizations, with what documentation, and with what level of exposure.

For any questions regarding the scope of the reform, the review of existing contracts, the updating of templates, or the implementation of AI-clearance protocols, the Intellectual Property team at Olivares is available to support the analysis and design solutions tailored to each case.

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