Information Commissioner’s Office (ICO) Consultation on Accuracy of Training Data and Model Outputs

UK Music Submission

1. UK Music is the collective voice of the UK’s world-leading music industry. UK Music represents all sectors of the music industry – bringing them together to collaborate, campaign and champion music. A full list of UK Music members can be found in Annex A.

2. We welcome the ICO’s detailed consideration of data protection in the context of artificial intelligence (AI). As representatives of the UK music industry, our primary concern in respect of data protection revolves around the impact of AI services and platforms on the personal data and associated datasets of individual writers and artists. We have submitted detailed comments to parts one and two of this consultation series to which we refer (our submissions can be found here and here). As part of these responses, we noted that without express permission, there is no lawful basis for AI services and platforms to process personal data.

3. AI services and platforms (often operated by entities including third-party vendors who sell datasets to enterprises for commercial purposes to end users) collect data for machine learning. This scraping often constitutes direct violation of the Terms of Service of the websites from where such data is scraped. Such scraping involves many rights that require express permission from rightsholders and data subjects. These rights include copyright permissions for the reproductions occurring during the training process, as part of the tokenisation and embedding of data into the model.

4. To summarise our key comments to the previous two parts of the consultation series: Express permission for the processing of personal data is essential for any data ingestion for machine learning purposes. Such specific permission is required at every stage throughout the generative AI life cycle.
5. Accuracy is one of the key principles of data protection, along with the other data protection principles listed in Article 5 (1) of the UK GDPR. A key data principle for personal data processed during machine learning is the first requirement that data need to be processed lawfully, fairly and in a transparent manner in relation to the data subject (‘lawfulness, fairness and transparency’). Similarly, concerning the accuracy principle, we stress the requirement that the controller and or processor to be responsible for processing the data needs to demonstrate compliance with these principles (these key principles include lawfulness, fairness, and transparency, as well as accuracy and accountability). Consequentially, AI services and platforms, as data controllers, need to maintain accurate records of the personal data processed during the ingestion process. This is also important to ensure that data subjects can enforce their rights including rectification.

6. If the data is to be accurate and attributed to the correct data subject, then it needs to be obtained from an accurate and authorised source. Personal data obtained by AI services from scraping the internet is at risk of being inaccurate, out of date and not correctly attributed to the applicable data subject.

7. The records of the music ingested not only have to be accurate, but also auditable by the ICO or the individual data subject whose personal data (potentially including biometric data) have been processed in accordance with the existing data protection framework. The data subjects have a right to be informed and rectify incorrect information.

8. These records must be available before any processing commences to fulfil the accountability requirement applicable to all seven data protection principles, including lawfulness and accuracy.

9. The ICO suggests that accuracy might matter less for AI models used in inspiration-based applications, like music generation from a Large Language Model trained on creative works. However, if a legal basis applies to an AI tool used for music generation, ensuring high accuracy of metadata (e.g., song authorship, performance, title) is crucial both during input and output stages. Without accurate metadata, a data subject cannot be appropriately recognised as the creator of the output (amongst other potential damage suffered by creators from such inaccuracy including reputational damage, misrepresentation and more).

10. Accurate recognition and attribution of music used to train a Large Language Model (LLM) are crucial to ensure individuals receive appropriate recognition, retain creative control, and avoid financial harm. Without accurate information, individuals may not be able to benefit financially from their music (e.g., receiving royalties based on their contributions).
11. We would welcome clarity from the ICO regarding its guidance on accuracy in inspiration-based AI use cases, as well as confirmation that attribution of data indigested, and provided as part of output, relating to creative arts is vitally important to individuals.

12. We agree with the ICO conditions for a Data Protection Impact Assessment to be carried out by the controller, i.e., the AI services or platforms. “Your DPIA should include:

- A systematic description of the processing activity, including data flows and the stages when AI processes and automated decisions may produce effects on individuals;
- An explanation of any relevant variation or margins of error in the performance of the system which may affect the fairness of the personal data processing (see ‘What do we need to know about accuracy and statistical accuracy’); and
- A description of the scope and context of the processing, including:
  o what data you will process;
  o the number of data subjects involved;
  o the source of the data; and
  o to what extent individuals are likely to expect the processing.

Your DPIA should identify and record the degree of any human involvement in the decision-making process and at what stage this takes place. Where automated decisions are subject to human intervention or review, you should implement processes to ensure this is meaningful and also detail the fact that decisions can be overturned.”

13. We also agree for the most part with the concluding advice to AI services and platforms:

“You must, where appropriate:

- seek and document the views of individuals whose data you will be processing during the AI lifecycle, or their representatives, unless there is a good reason not to;
- consult all relevant internal stakeholders;
- consult with your processor, if you use one; and
- consider seeking legal advice or other expertise.
Unless there is a good reason not to do so, you should seek and document the views of individuals whose personal data you process, or their representatives, on the intended processing operation during a DPIA. It is therefore important that you can describe the processing in a way that those you consult can understand. However, if you can demonstrate that consultation would compromise commercial confidentiality, undermine security, or be disproportionate or impracticable, these can be reasons not to consult.”
Annex A

UK Music's membership comprises:

- **AIM - Association of Independent Music** – The trade body for the independent music sector and community which make up a third of the UK's recorded music market alone. Representing 1000+ independent record labels and associated businesses, AIM's members range from globally recognised brands to the next generation of British music entrepreneurs.

- **BPI - The British Phonographic Industry** – The representative voice of the UK’s recorded music sector. Its membership consists of approximately 500 music companies, ranging from hundreds of SME independent labels to the major global record companies Universal, Sony and Warner. BPI also owns and organises the BRIT Awards, the Mercury Prize and administers the Music Exports Growth Scheme (MEGS).

- **FAC – The Featured Artists Coalition** - UK trade body representing the specific rights and interests of music artists. A not-for-profit organisation, they represent a diverse, global membership of creators at all stages of their careers and provide a strong, collective voice for artists.

- **The Ivors Academy** - An independent association representing professional songwriters and composers. As champions of music creators for over 70 years, the organisation works to support, protect and celebrate music creators including its internationally respected Ivors Awards.

- **MMF – Music Managers Forum** - Representing over 1000 UK managers of artists, songwriters and producers across the music industry with global businesses.

- **MPG - Music Producers Guild** - Representing and promoting the interests of all those involved in the production of recorded music – including music studios, producers, engineers, mixers, remixers, programmers and mastering engineers.

- **MPA - Music Publishers Association** - The representative voice of the UK’s music publising sector. Membership includes over 95% of the country's major and independent music publishers and close to 4,000 catalogues across all genres of music.

- **Musicians’ Union** - Representing over 32,000 musicians from all genres, both featured and non-featured.
• **PPL** Licenses recorded music in the UK when it is played in public or broadcast and ensures that revenue flows back to our members. These include independent and major record companies, together with performers ranging from emerging musicians to globally renowned artists. In 2021 we collected £252.8 million while also distributing money to 147,000 performers and recording rightsholders.

• **PRS for Music** is a collective management organisation representing the rights of more than 165,000 songwriters, composers and music publishers in the UK and around the globe. It collects and distributes royalties to ensure its members are paid whenever their musical compositions and songs are steamed, downloaded, broadcast, performed and played in public. In 2022, PRS for Music collected £964m and paid out £836.2m in royalties.

• **UK Music** also has an informal association with **LIVE (Live music Industry Venues & Entertainment)**, the voice of the UK’s live music and entertainment business. LIVE members are a federation of 13 live music industry associations representing 3,150 businesses, over 4,000 artists and 2,000 backstage workers.