February 2025

Copyright and Artificial Intelligence Consultation – UK Music Response

Executive Summary

UK Music urges the Government to reject the proposed text and data mining exception with a rights reservation (Option 3), which would allow AI developers to use music without permission or compensation. Instead, we support strengthening copyright while still requiring licensing in all cases (Option 1).

Our key concerns are set out fully in this response. We believe:

- **A copyright exception undermines basic principles of copyright and intellectual property.** Copyright is founded on the basic principle that you should be able to control how your works are used and be compensated for their use. These proposals turn this principle on its head.
- **A rights reservation is not the answer.** The proposed rights reservation undermines the permission-based principle of copyright: consent must be obtained, never assumed. A rights reservation is unworkable, placing an unreasonable burden on creators and rightsholders. In the EU, where a similar exception has been implemented, it has led to legal uncertainty and failed to encourage inward investment from AI developers.
- **Diluting copyright threatens the UK's creative economy.** The creative industries have been designated as one of the Government's eight priority sectors for growth, with the music industry contributing £7.6 billion to the UK economy in 2023. A copyright exception would impact creator and rightsholders earnings, reduce licensing revenues, and deter inward investment in the sector.
- **Record keeping, transparency and labelling is key.** AI developers must keep detailed records of all material used in the training process. Transparency around what material is used should be a prerequisite for any options pursued by the Government, not just Option 3. Consumers must not be misled, and AI-generated content should be clearly labelled as such.

We look forward to working with the Government on the next steps of the consultation, which we hope will recognise the views of the music industry.

Introduction

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. In 2023, the UK music sector contributed £7.6 billion to the economy,[1] a 16% increase on the previous year. It also employed 216,000 people - more than the pharmaceutical, steel, and aerospace sectors combined. Music delivered £4.6 billion in exports, up 15% from £4 billion in 2022. The UK is one of only three net exporters of music globally, and the second largest exporter of recorded music in the world after the US.

3. Last year, the Government identified the creative industries as one of eight priority growth sectors, because it is an area where the UK is already "world-leading" and because the sector is "expected to grow worldwide, creating further growth opportunities".[2]

4. We agree the UK's music sector has significant growth potential, with Goldman Sachs predicting that the value of the global recorded music market will nearly double by 2030 to $49.1 billion, while the live sector is expected to increase by more than 50% to $51.7 billion.[3] This tallies with the rest of the creative industries, which grew at more than one and a half times faster than the wider economy from 2010 - 2019.[4]

5. Yet evidence from the creative industries suggests the Government's preference for pursuing Option 3 will only stifle this growth. Moreover, the recent US ruling in *Thomson Reuters v Ross Intelligence*,[5] which rejected the defence of "fair use" as a basis for AI training of copyright material, provides a strong counterpoint to the earlier narratives made by AI developers[1] seeking to avoid licensing and represents a sea-change in how the merits of the many actions by rightsholders against those developers are viewed.

6. Since 2019 we have engaged with the various consultations and inquiries on the topic of AI and copyright, including submitting to a World Intellectual Property Office (WIPO) call for comments on IP and AI in February 2020,[6] an Intellectual Property Office (IPO) call for evidence on AI in November 2020, [7] and an IPO consultation on copyright and patents in January 2022.[8]

[1] In the context of the UK consultation on copyright and AI, an AI developer is defined as a professional who designs, builds, and maintains AI systems and applications. Their work involves creating algorithms, developing machine learning models, and implementing AI solutions to solve complex problems or improve processes.

7. Throughout our engagement, we have emphasised the importance of considering the impact on the creative industries in any decision making. The music industry is often an early adopter of technological change and while we are prepared to embrace the opportunities that AI brings, we remain concerned about IP rights being stripped and the conditions for licensing being diminished. We fully reject the suggestion that it is too complicated to license for AI-generated works: the music industry has been licensing for over 100 years, and workable solutions can always be found.

8. Since the previous Government announced its intention to pursue a Text and Data Mining (TDM) copyright exception for AI in July 2022 - before reversing the decision in January 2023 - UK Music members have prioritised working with stakeholders, policymakers, and the public on AI's implication for the music industry. This includes:

    - Throughout 2023 we took part in the code of conduct work led by the IPO, before it failed to reach a conclusion in early 2024.
    - In September 2023 the Council of Music Makers (CMM), comprising five of UK Music's members representing creators, released their fundamentals for music and AI.[9]
    - In January 2024 PRS for Music announced their AI principles.[10]
    - In April 2024 UK Music commissioned polling around the public concerns for AI-generated music.[11]
    - In May 2024 the All-Party Parliamentary Group (APPG) on Music released a report where all ten UK Music members wrote about their hopes and concerns.[12]
    - In May 2024, the Association of Independent Music (AIM) led the creation of Generative AI guidance for AI developers and policymakers for its global body, WIN.[13]

9. In addition, other international music organisations with relationships with some of our members, such as the IFPI have published principles too,[14] as have many music companies on an individual basis.

10. UK Music and some of its members have signed up to support the Human Artistry Campaign,[15] the Creative Rights in AI Coalition (CRAIC),[16] and the statement against the unlicensed use of works in AI training, led by Ed-Newton Rex.[17]

11. In January 2025, the Government accepted several key recommendations of Matt Clifford's *AI Opportunities Action Plan*, including one stating that the Government should *"reform the UK text and data mining regime so that it is at least as competitive*

as the EU… The EU has moved forward with an approach that is designed to support AI innovation while also enabling rights holders to have control over the use of content they produce".[18]

12. The first Gunning Principle requires that public consultations take place while proposals are at a formative stage, meaning no decision has been made or predetermined by policymakers.[19] However, the text in the AI Opportunities Action Plan suggests a prejudgement in favour of Option 3 in this consultation – a TDM exception with a rights reservation mechanism. If the Government moves forward with this approach, this raises serious questions of process.

AI Training and Copyright – Policy Options

Question 1: *Do you agree that option 3 is most likely to meet the objectives set out above?*

13. **No, we do not agree**. Option 3 poses significant dangers to the music sector and the whole creative industries. The proposals would harm creators and rightsholders, undermine fundamental principles of copyright, and damage a sector that is vital for the UK's economic growth and global cultural influence. The arguments against Option 3 are explored further in our response to question 3.

14. We would query whether Option 3 meets the Government's three objectives (control, access, and transparency).

15. Option 3 actually *removes* control by making their rights contingent on proactively opting out. This places the burden on creators and rightsholders to prevent use of their works, rather than allowing them to exercise control over their works from the outset. This runs contrary to paragraph 47 of the Consultation which states that "*copyright law should enable creators and right holders to exercise control over, and seek remuneration for, the use of their works for AI training*". True control should mean AI developers must seek permission before using copyright-protected works, as the current system provides.

16. Option 3 undermines the existing international permission-based copyright standard by permitting use without obtaining a licence first. The objective of "access" is being used to justify eroding these long-standing protections for creators and rightsholders. Easier access for AI developers should not come at the expense of individuals' ability to control and monetise their works – a fundamental principle sustained by the permission-based copyright framework.

17. While we agree that transparency around AI is critical, under the Government's proposals transparency requirements seem contingent on Option 3. Transparency should be seen as integral to any AI activities. Whichever option the Government pursues, transparency measures must be attached.

18. Moreover, the Government also states that the proposals they take forward will "*be implemented in line with our existing legal obligations, domestic and international".* However, as it stands this is inaccurate.

19. The exception outlined in Option 3 (as well as in Option 2) contravenes the internationally binding Three-Step Test.[20] Compliance with this test is mandatory for the UK as part of our World Trade Organisation (WTO) membership and overall obligations under international copyright treaties. Furthermore, it is a key element of our free trade agreements, including the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

20. The three steps are cumulative, meaning that they must all be satisfied to comply with the test. The exception outlined in Option 3 would infringe upon all three conditions, as follows:

- **Applies to certain special cases.** Option 3's exception is very broad, covering "*large volumes of web-based material*", rather than being limited to a specific case. The inclusion of a rights reservation does not change the broad scope; nor would an express limitation to AI developers as sole beneficiaries.
- **Does not conflict with normal exploitation of the work.** Rightsholders license the copying of their creative works as part of their normal commercial exploitation. Option 3 directly conflicts with these actual and potential revenue streams, depriving rightsholders of tangible commercial gains.
- **Does not unreasonably prejudice the legitimate interests of the rightsholder.** Legitimate interests include, though are not limited to, the economic interests of the rightsholder, which are evidently damaged by the exception. It is unreasonable for rightsholders to accept the use of their works for any purpose without proper attribution or in a way that might constitute "derogatory treatment" – both of which infringe their moral rights.

Question 2: *Which option do you prefer and why?*

21. UK Music is in favour of **Option 1 – Strengthen copyright requiring licensing in all cases.**

22. The current legal framework for copyright protection in the UK is clear and well-established in practice. Copying works to train AI models requires a licence unless an exception applies.

23. The music industry, like many other creative sectors, is a licensing-based business. Licensing underpins the internationally successful commercial activities of our creative talent and businesses. The licensing-based model continues to operate successfully, with the notable exception of AI developers attempting to avoid paying for licensing.

24. There is no evidence of a market failure that justifies undermining this established framework – it provides a balance between allowing AI developers to access materials while ensuring creators and rightsholders are compensated for their work. Unlike Option 3, Option 1 offers a clear and workable framework for the use of copyright works.

25. This also ensures legal certainty for AI developers, as without express permission use will constitute copyright infringement. In turn, this allows them to proceed with confidence, knowing they are operating within the law and avoiding the risk of expensive litigation. Legal certainty is also critical for the wider business community, such as liability insurers, who may view AI developers as high-risk to cover if they are not confident that their models are trained on legally acquired materials. Legally acquired data is also of higher quality, as it is obtained through transparent and reliable channels.

26. Moreover, it provides certainty for creators who do not wish to use AI models trained on unlawfully obtained, copyright-protected content, as well as for investors in the music and the AI sectors. Option 1 supports a thriving commercial licensing market, while Option 3 would undermine this. This makes the UK a more attractive destination for creators and AI developers alike.

27. Strengthening copyright under Option 1 presents an opportunity to improve enforcement mechanisms and introduce provisions for additional damages. AI systems ingesting content without authorisation is unlawful, and stronger enforcement is needed to deter this. Better enforcement could be achieved through simplifying access to legal remedies and introducing statutory damages (as in the US) for copyright infringement.

28. Another important aspect of strengthening copyright relates to AI developers circumventing UK law by training their models abroad. The Government must ensure that models trained in other jurisdictions entering in the UK market comply with UK legislation to create a level playing field in which AI models compete fairly.

29. Option 1 must also have transparency measures attached to it from the beginning. Transparency is crucial for establishing and managing licensing agreements, which are necessary to ensure that AI systems are operating in full compliance with copyright law.

C.1. Government's Proposed Approach - Exception with Rights Reservation

Question 3: *Do you support the introduction of an exception along the lines outlined above?*

30. **UK Music does not support the introduction of an exception as outlined by the Government.**

31. As noted by the Government, their proposed approach "i*s similar to the EU's exception for text and data mining*" However, there are significant issues with the workability of the EU's exception, in particular challenges associated with the rights reservation mechanism. Incorporating the evident uncertainties of the EU's approach will negatively impact the UK's music and creative industries.

i. <u>No Market Failure</u>

32. As already noted in response to Question 2, there is no evidence of a market failure that would justify the introduction of any copyright exception.

33. Any suggestion that copyright is a barrier to AI development is baseless. Rightsholders have been licensing their repertoire to commercial users for over a century, adapting to emerging technologies (e.g., radio, music streaming and social media platforms), and meeting user demand for multi-territorial licences. Licensing is proven to provide commercial users with the legal certainty required for investment, while also ensuring the protection of creators and rightsholders from unauthorised exploitation.

34. Some partnerships have developed between music companies and AI developers, where they have chosen to engage and respect rights. The issue is not copyright, but the business practices adopted by the very many AI companies who are seeking to circumvent copyright laws.

35. The UK's music sector is worth £7.6 billion,[21] while the creative industries as a whole are worth £125 billion to the UK economy.[22] Music has significant growth potential, demonstrated by a 13% (£0.9 billion) increase in Gross Value Added (GVA) in the

last year alone. This growth is based on a functioning market, underpinned by a strong rights framework, and underscores why the Government is right to identify the creative industries as one of its eight growth-driving sectors in its industrial strategy.

36. However, the Government's proposals risk undermining this growth. They would impact creative rights worth millions, threatening a key growing sector that is also a vital component of the UK's soft power – something the Government is keen to promote with its new Soft Power Council. Our strong copyright protections are crucial for encouraging inward investment in the sector, weakening them will damage this vital industry that thrives in the international market.

37. This position is further supported by the recent US case *Thomson Reuters v Ross Intelligence* (District of Delaware, District Court 11 February 2025), where the court rejected the AI developer's reliance on a "fair use" defence. A key point in that case was the use of the training to compete directly with the claimant's primary market. The copying of copyright works by AI developers is highly likely to pose a direct threat to the relevant markets (with the potential creation of substitute products). It also is likely to take away future AI-training data licensing opportunities (removing the opportunity for revenue generation by licensing AI developers directly for the training of their AI).

38. A further key point from the decision in *Thomson Reuters v Ross Intelligence* is that the finding of infringement demonstrates in the US permission is needed to train AI. Therefore, there is no need for the Government to introduce a TDM exception in order to provide an incentive for AI developers to operate in the UK, rather than in the US. In both jurisdictions AI developers need to obtain the appropriate licences and cannot benefit from fair use (US) or fair dealing (UK) defences.

39. A specific exception has also not caused investment in AI in countries such as Singapore and Japan. Not only is Singapore a completely different market in size and creative industry, but their exception for computational analysis is also much more limited than alleged. Whilst countries like Japan with more permissive regimes are currently backtracking on previous decisions.

ii. <u>Technical Issues with Rights Reservation Mechanisms</u>

40. The EU's TDM exception was adopted in 2019, before the widespread use of generative AI. Fundamentally, it was not designed with large-scale ingestion of internet content by AI systems in mind, which partially explains the difficulties associated with its rights reservation ("opt-out") mechanism.

41. There has been a lack of clarity about what exactly constitutes an opt-out in the EU, leading to legal uncertainty. This ambiguity undermines the effectiveness of the

exception, leaving creators and rightsholders vulnerable to unauthorised use of their works.

42. The most commonly used opt-out methods (for example, robots.txt) are location-based, meaning they only work on web domains controlled by the rightsholder. However, music is typically copied and shared to platforms beyond the rightsholders control, such as when an artist's track accompanies a YouTube video. As a result, creators and rightsholders cannot track or control every instance of their work's use, making it impossible to monitor and opt out of every downstream copy.

43. Emerging alternatives to location-based opt-outs involve attaching the reservation to a files metadata, also have issues as metadata is vulnerable to removal and editing.

44. Technical issues with machine-readable rights reservation protocols are discussed in more detail in response to Question 8.

iii. Widespread Non-Compliance with Rights Reservations

45. There is evidence that other existing reservation protocols are frequently ignored.

46. One study examining data privacy preferences, based on 1.7 million data events across 134 prominent US websites, found that 88% of companies fail to respect user opt-out preferences. Nearly 40% of privacy-dependent trackers remain active despite opt-out signals.[23]

47. This disregard for user privacy raises broader concerns about the effectiveness of rights reservations for AI. If companies fail to respect opt-out preferences in data privacy, AI developers are unlikely to honour these opt-outs for large-scale generative AI training.

iv. Limitations in Protecting Creators and Rightsholders' Rights

48. The Government's proposals will place a significant administrative burden on rightsholders who wish to opt-out of AI training. This will disproportionately impact smaller rightsholders and individual creators, who may lack the resources and technical knowledge to navigate this process effectively.

49. There is no system allowing music creators and rightsholders to retroactively reserve rights for works that have already been used in AI training datasets. Many creators are therefore left with no control of their works once these have been ingested by AI systems.

50. There is also no way for creators and rightsholders to know whether their reservation has been respected. Without transparent mechanisms for tracking or enforcing

compliance, creators and rightsholders cannot confirm if their opt-out requests are being honoured. This makes it even more likely that AI developers will disregard their preferences.

Question 4: *If so, what aspects do you consider to be the most important? If not, what other approach do you propose and how would that achieve the intended balance of objectives?*

51. Option 1 more effectively meets the objectives the Government has laid out in a number of ways.

52. **Control** – By requiring a licence for all copyright works to be used for AI training, creators and individuals under Option 1 maintain full control of their content and are compensated for its use. Meaningful control of a work is only possible when the decisions about its use are made with explicit consent in advance.

53. **Access** – Option 1 provides a clear framework that allows AI developers to access content through licensing. AI developers know they access works in a way that is legally compliant, while also ensuring creators and rightsholders are compensated. Legal certainty of the use is paramount for the actual economic value of AI models.

54. **Transparency** – Licensing agreements must provide a record of usage for works, which allows creators and rightsholders to track how their works are being used and by whom. By requiring a licence prior to using content, Option 1 inherently results in a more transparent environment for AI, though this still must be bolstered with other transparency requirements.

Question 5: *What influence, positive or negative, would the introduction of an exception along these lines have on you or your organisation? Please provide quantitative information where possible.*

55. The introduction of an exception along these lines would have a significant negative economic impact on the UK music industry and the wider creative industries.

56. The UK music industry contributes £7.6 billion to the UK economy,[24] nearly half of this from exports, while the broader creative sector adds around £125 billion.[25] Our strong copyright protections encourage inward investment in these industries. Option 3 weakens these protections and will jeopardise the UK's economic standing as a global leader in the creative economy.

57. The exception would permit companies to copy music and create new works based on human creativity without compensating the creative talent of thousands of writers,

artists and other individuals and companies involved in the music business. In the immediate term this will impact licensing revenues worth millions, and in the longer term reduce investment and incomes for creators and adjacent businesses.

58. Licensing is the most efficient and proven way of encouraging a thriving market. An exception with a rights reservation, meanwhile, is impractical, inefficient and places undue burden on creators and rightsholders to opt-out of their works being used. This unfairly shifts responsibility onto those (creators and rightsholders) who did not choose this situation.

59. AI-generated music supported by a copyright exception would also be in direct competition with creators, devaluing the earnings of music-makers and music businesses.

Question 6: *What action should a developer take when a reservation has been applied to a copy of a work?*

60. While we object strongly to Option 3, if a rights reservation is introduced, it should be for AI developers to ensure that their models are only trained on content that has not been reserved from AI training. We agree with paragraph 81 of the Consultation that the effects of a rights reservation should apply more broadly than the individual copies.

61. Once it is established that a reservation applies, AI developers who still wish to use the works must obtain a licence from the rightsholder to use the material.

Question 7: *What should be the legal consequences if a reservation is ignored?*

62. If a rights reservation is ignored it is copyright infringement since it constitutes the unauthorised use of a copyright-protected work. This should apply regardless of where the ingestion of the copyright-protected content takes place.

63. Precedent for this approach is outlined in Article 53(1)(c) EU AI Act, and Measure 3 of its associated Code of Practice.[26] Similar wording should be reflected in our regulations. Article 53(1)(c) states:

"Providers of general-purpose AI models shall put in place a policy to comply with Union law on copyright and related rights, and in particular identify and comply with, including through state-of-the-art technologies, a reservation of rights expressed pursuant to Article 4(3) of Directive (EU) 2019/790, regardless of the jurisdiction in which the copyright-relevant acts underpinning the training of those general-purpose AI models take place."

Question 8: *Do you agree that rights should be reserved in machine-readable formats? Where possible, please indicate what you anticipate the cost of introducing and/or complying with a rights reservation in machine-readable format would be.*

64. "Machine-readable" rights reservations are not workable for music, for reasons outlined below. We are unable to put a figure on the cost of introducing and complying with machine readable rights reservations. However, the financial and time burdens would be significant on creators, rightsholders and collecting societies.

65. The proposals are not practical for all rightsholders, not just those in the music industry. The data infrastructure and processes to make this system functional do not exist, and the administrative burden is impractical.

i. Issues with Location-Based Rights Reservations

66. Most machine-readable rights reservations are location-based, meaning they only apply to web domains controlled by the rightsholder. Since music is copied and shared on platforms beyond the rightsholders control, location-based reservations unworkable for music, as they cannot control and track every instance where their work is used. Monitoring and opting out of every downstream use is simply impossible.

67. Current location-based protocols also require creators or rightsholders to block each AI web crawler separately. AI developers do not always publicly disclose their web crawlers, and new AI models and crawlers are developed frequently. This requires creators or rightsholders to continuously monitor and update their rights reservations – an impractical and unsustainable burden.

C.2. Government's Proposed Approach - Technical Standards

Question 9: *Is there a need for greater standardisation of rights reservation protocols?*

68. Yes, there is a need for greater standardisation of rights reservation protocols; however, these must be workable. The current range of machine-readable protocols complicates the process of reserving rights and makes it harder to establish a single, enforceable framework.

69. But as noted in response to Question 8, current machine-readable rights reservations are not workable. A standardised protocol must allow for works-level reservations, enable preferences to be easily expressed and managed across

different platforms, and be enforceable. Without these features, any standardised protocol will remain ineffective.

Question 10/11: *How can compliance with standards be encouraged? Should the government have a role in ensuring this and, if so, what should that be?*

70. While we maintain our opposition to an exception with rights reservation, if such a mechanism was introduced then the Government should take an active role in encouraging compliance with rights reservation standards.

71. These standards must be designed through collaborative stakeholder processes. The Government should bring rightsholders, creators and the technology sector together to develop standards that work for everyone. Standards developed with input and support from all relevant parties are more likely to gain widespread compliance. This workability must be agreed in advance, with clearly defined and rigorous parameters. This is paramount; without such parameters there should not be any exception.

72. There must also be alignment with other international standards that are being developed.

C.3. Contracts and Licensing

Question 12: *Does current practice relating to the licensing of copyright works for AI training meet the needs of creators and performers?*

73. No, it does not currently meet the needs of creators and performers, as most AI developers do not currently seek permission for use or remunerate them in any way

74. UK Music members that form part of the Council of Music Makers (CMM) those being the Featured Artists Coalition (FAC), The Ivors Academy (IA), the Music Managers Forum (MMF), the Musicians' Union (MU) and Music Producers Guild (MPG) believe that the music industry and the Government must ensure that explicit consent is secured from music-makers before their works are licensed for AI ingestion. This is supported by Association of Independent Music (AIM). Members of UK Music representing rightsholders posit consent will be decided upon by the contractual arrangement between the rightsholder and the music-maker client. Discussions to build a consensus on these issues are ongoing within the industry. In any scenario, our music industry would benefit from clear support by government for consent-based licensing rather than the adoption of an exception.

75. Additionally, AI developers are deliberately and illegally avoiding seeking licences to use copyright materials. Ethical AI developers and those who license properly are effectively penalised financially for trying to do the right thing. Anecdotally, we understand AI investors are putting pressure on developers not to license due to the additional cost and time associated with it. There must be incentives to license, or consequences to not properly licensing. There are huge benefits to licensing and the UK's music industry has demonstrated adaptability in finding solutions for licensing emerging technologies for over a century.

76. Resolving this requires a robust framework that makes it easier for creators and performers to enforce their rights and act against unauthorised use of their works. A strong licensing market is reliant on a strong copyright framework, hence our support for Option 1.

Question 13: *Where possible, please indicate the revenue/cost that you or your organisation receives/pays per year for this licensing under current practice.*

77. N/A

Question 14: *Should measures be introduced to support good licensing practice?*

78. Yes. As well as ensuring current copyright law is enforced, transparency measures should be introduced to support good licensing practices, without imposing detailed obligations. Without transparency, it becomes harder to track whether AI developers are exploiting copyright-protected materials without permission.

79. Clear records of training data allow creators and rightsholders to know when and how their works are being used. This information is vital for valuing licensing agreements, managing these agreements, and monitoring potential infringements.

80. Transparency also benefits AI developers by providing them with legal certainty, reducing the risks of expensive litigation related to copyright infringement. A lack of transparency leads many AI developers to avoid seeking licences, as copyright enforcement is difficult without transparency. A well-functioning licensing market requires openness.

81. Adequate enforcement mechanisms around transparency are also vital to ensure compliance, and to ensure licensing agreements are being adhered to.

82. It must also be noted that the rights reservation proposed in Option 3 is incompatible with good licensing practice. It adds unnecessary complexities to the licensing processes, particularly for individual creators and smaller rightsholders who lack the resources to monitor and uphold their rights.

Question 15: *Should the government have a role in encouraging collective licensing and/or data aggregation services? If so, what role should it play?*

83. Government intervention in encouraging collective licensing and data aggregation is unnecessary. Voluntary, market-driven licensing is a proven model that allows for rightsholders to negotiate their own terms and retain control of their works

Question 16: *Are you aware of any individuals or bodies with specific licensing needs that should be taken into account?*

84. With regards to the input stage (the copies made during the AI training), no specific licensing needs exist that cannot be met within the existing licensing framework. Educational establishments, who are responsible for licensing (rather than individual pupils or students), require express permissions from the relevant rightsholders if they intend to develop AI models. This requirement exists in addition to the educational licences provided by rightsholders, either directly or indirectly through their collective management organisations.

85. With regards to AI-generated output in education, the situation is no different to that for AI-generated output outside the school or university environment.

86. We note, however, when AI is used as tool for human creativity, the resulting outputs trigger copyright protection according to the general ownership rules of the respective educational establishment. Overall, though, no special licensing needs exist which require addressing.

C.4. Transparency

Question 17: *Do you agree that AI developers should disclose the sources of their training material?*

87. Yes, AI developers must disclose the sources of their training material. Such disclosure ensures accountability and allows creators and rightsholders to monitor the use of their creative works, particularly if the Government chooses to pursue a TDM exception with a rights reservation (Option 3).

88. However, it is not acceptable to only provide transparency obligations under Option 3. Transparency is entirely unrelated to copyright law. It is a necessary safeguard against illegitimate online practices that could undermine both the creative industries and public trust in AI technologies. Transparency should be a prerequisite for any AI developer for safety and public interest reasons, and is something any government should set as a clear priority.

89. While copyright law exists to protect the economic and moral rights of creators, transparency obligations serve a broader function - ensuring accountability, preventing misuse, and creating a safer online environment. Conflating the two would weaken the effectiveness of both, as transparency benefits not only creators and rightsholders but also consumers, policymakers, and the integrity of the digital economy.

90. When discussing transparency and copyright, it is important to respect that copyright applies to specific musical works, sound recordings, and even images used as training data.

Question 18: *If so, what level of granularity is sufficient and necessary for AI firms when providing transparency over the inputs to generative models.*

91. AI developers must provide a detailed account of their training data that goes beyond a simple overview. This should include information about the copyright-protected works used, including:
    - A declaration on whether any training data has been directly copied during the AI generation process, along with a comprehensive list of the specific copyright-protected works used.
    - All relevant metadata attributed to that work including International Standard Musical Work Code (ISWC) and International Standard Recording Code (ISRC) identifiers. These international standards identify a song as a composition (ISWC) or a specific recording or version of that song (ISRC).
    - The specific time periods during which the copying occurred.
    - The jurisdiction it was copied in.
    - Whether works are just copied or copied and stored.
    - How segments of work are stored.

    As well as providing the data collection methods applied:

    - A clear description of the data collection method.
    - References to data sourced from third-party dataset providers (used during pre-training and/or fine-tuning), including the URLs used.
    - Whether the data were sourced on the basis of a) a licence or b) an exception without rights reservation.
    - Identification of the data sources used, including whether it used specific data sources or data gained from indiscriminate web scraping.
    - The legal basis for the data collection and methods. This is to ensure data capturing and processing is a) legally compliant and b) traceable for rightsholders.

92. It is not enough to just provide a song name, artist, or track as there will be multiple versions of each song even by a single artist. Given this metadata can be collected by digital streaming services, it should be taken as a given that AI developers can also collate this, and the Government must not accept any excuses that it is not possible for it to be made available. It is essential that AI developers comply with best industry practice.

93. In line with the EU model, AI developers should also be prepared to publish information around how they have respected copyright laws when ingesting content. AI developers must disclose whether personal information is retained in training data, similar to a Subject Access Request (SAR) under data protection laws. Creators and rightsholders should have the ability to request details on whether their works or data have been used and how they were obtained.

94. Just as GDPR allows individuals to access, correct, or delete personal data, a similar mechanism should apply to AI developers training data, ensuring rightsholders can challenge unauthorised use. Creators and rightsholders should also be made aware of how to request information on whether their works have been used from AI developers, through education initiatives. Direct right of enforcement is key, so that individuals do not have to rely on making an application to a regulator, thereby potentially delaying and complicating the process.

Question 19: *What transparency should be required in relation to web crawlers?*

95. Transparency regarding web crawlers is equally important. We welcome the group of amendments laid by Baroness Kidron to the discussions on the Data (Use and Access) Bill in the House of Lords.

96. AI developers must disclose the name of each web crawler used, the legal entity responsible for its operation, and the specific purposes for which the crawler is deployed. They should clearly indicate which legal entities receive data collected by these crawlers and provide a single point of contact to enable rightsholders to communicate with them and to lodge complaints or ask questions about the use of their copyright works.

97. This information is vital in ensuring that creators and rightsholders can effectively communicate any concerns or complaints on how their data is used.

Question 20: *What is a proportionate approach to ensuring appropriate transparency?*

98. There is a need for these obligations to be enforceable under UK law, and there must be clear, proportionate, consequences if AI developers do not follow the rules. Only sizeable sanctions will incentivise AI developers to comply with the law. If AI developers do not fulfil their transparency obligations, any sanctions should be distributed back to the creators and rightsholders rather than kept by the Government. This is the fairest system for those whose incomes are likely to be impacted by any breaches.

99. A proportionate approach to ensuring appropriate transparency may involve implementing a tiered system of disclosure. While all AI developers must keep granular records of the material ingested at input stage and utilised at the output stage, we recognise the feasibility of full disclosure. The Government must consider how best to approach mechanisms of disclosure including what is automatically made public, what can be requested, and what might constitute commercially sensitive information such as pricing. The information provided by AI developers must always be functional and usable for creators and rightsholders who request this information.

Question 21. *Where possible, please indicate what you anticipate the costs of introducing transparency measures on AI developers would be.*

100. The costs associated with introducing transparency measures should be viewed as an inherent part of doing business. This investment is both necessary and proportionate to the benefits of ensuring accountability and compliance in the AI ecosystem, and thus driving trust amongst consumers and the creative industries. Plus, these costs are not just expected of AI developers based in the UK, as other territories have transparency requirements with financial implications too.

Question 22. *How can compliance with transparency requirements be encouraged, and does this require regulatory underpinning?*

101. Legal requirements must be enforced, not encouraged.

102. Compliance with transparency requirements can best be enforced through the establishment of a robust regulatory framework. Clear and enforceable rules, coupled with deterrent remedies such as sizeable sanctions, are essential to discourage non-compliance. In addition to any civil or criminal enforcement, it will be helpful to have additional regulatory sanctions.

103. Any transparency framework must be designed to prevent AI developers from circumventing obligations by operating outside the UK while still benefiting from the UK market. A strong, coordinated international approach is necessary to close

loopholes and create a level playing field for all stakeholders. This could also help propel UK into extra growth, one of the key aims of the current government.

Question 23. *What are your views on the EU's approach to transparency?*

104. The EU's approach to transparency ensures that AI developers report to the European AI Office, though it remains unclear how creators and rightsholders verify who has opted out of AI training, making some elements of transparency tricky to monitor. In many ways, the EU is also still developing its approach to transparency. In the UK, consideration must be given to who the transparency obligations ultimately report to. The exact parameters in the EU continue to be debated, leading to uncertainty.

105. In addition to the oversight made by regulators, it must also be accessible to those whose works are being used. For transparency to be meaningful, creators and rightsholders must be able to access and verify the information relevant to the use of their works. Without clear and enforceable access to this information, it will be impossible to monitor or challenge unauthorised use effectively. Requirements around disclosure also encourage best practice from AI developers and are more likely to drive a licensing market than the Government's proposal of a rights reservation.

C.5. Wider Clarification of Copyright Law

Question 24. *What steps can the government take to encourage AI developers to train their models in the UK and in accordance with UK law to ensure that the rights of right holders are respected.*

106. The Government can take numerous steps to encourage AI developers to train their models in the UK. Notably, the most relevant steps are unrelated to IP. Tangible steps to promote investment in AI in the UK include: a skilled workforce, both from the UK and from abroad (subject to training and immigration policy), capital investment (subject to tax incentives; notably, it will be difficult to compete with the established financial structures underpinning Silicon Valley), technological infrastructure (building accessible datacentres; competing with the $500 billion investment announced in the US), competitive pricing of energy (ignoring the detrimental impact of AI on the climate). These steps require policy initiatives unrelated to copyright.

107. Maintaining strong copyright protection remains crucial. The UK's reputation as a world-leader in the music and creative industries hinges on robust copyright laws and their enforcement. The UK's unique success in the creative industries makes it impossible to compare it to places with more of an open market for AI, such as

Singapore, as their creative and cultural exports are nowhere near alike. The Government must keep this in mind while it measures the benefits of the options in this consultation.

108. Crucially a rights reservation mechanism has not incentivised AI developers to train their models in the EU. Despite the introduction of such provisions, the European regulatory environment remains ambiguous and uncertain, deterring significant investment in AI activities within the region. Pursuing a rights reservation via Option 3 within the UK makes it unlikely this will encourage AI developers to train in the UK. As referenced by the Consultation, the UK is ranked in fourth place for its AI capacity globally. The UK, in particular, scores high regarding its legal framework but falls short regarding infrastructure, which is nothing to do with copyright.[27]

109. The AI Opportunities Action Plan offers far more valuable measures for attracting new talent to the UK without adversely affecting the creative industries. For example, streamlining immigration processes for skilled AI professionals ensures that the UK remains competitive in the global talent market. Investing in funding, skills development, and research collaboration further supports the growth of the AI sector, making the UK an appealing destination for both established companies and startups seeking to innovate within a supportive ecosystem. These legislative changes can be made without jeopardising copyright or the UK's creative industries.

110. It is important that the Government is aware that globally, even in countries where the rules appear clear, AI developers continue to bypass rightful payments to creators and rightsholders. High-profile cases, such as Meta's alleged use of pirated content for training purposes,[28] highlight the need for stringent enforcement of copyright laws. If the Government does want AI developers to train in the UK, it must ensure that licensing mechanisms are straightforward and accessible, encouraging AI developers to engage in ethical practices.

Question 25: *To what extent does the copyright status of AI models trained outside the UK require clarification to ensure fairness for AI developers and right holders?*

111. The training of AI models outside the UK raises a variety of issues which are potentially addressed within existing law. Specifically, the secondary infringement provisions of the Copyright, Designs and Patents Act (CDPA) might deal with their infringing status under UK Copyright law. However, any potentially clarification of the situation by the courts, in particular Getty Images v StabilityAI is some time away.[29] More urgent initiatives are required to ensure that AI developers do not circumvent the UK copyright regime whilst benefiting from access to its market.

112. Legislative initiatives will be required to deal with AI developers circumventing UK copyright laws to protect the UK market and to ensure its competitiveness. Article 2 of the EU AI Act outlines provisions to this effect, meaning foreign AI developers cannot access the EU market unless they comply with EU regulations.

113. Furthermore, training AI models outside the United Kingdom does not absolve AI developers from the requirement to comply with transparency obligations. Transparency is paramount; UK creators and rightsholders should be informed when and how their works are being used to train AI models, regardless of where these models are developed. Robust transparency policies, as outlined in our response to Questions 17 and 18, designed to protect the interests of music creators and rightsholders, are key notwithstanding the place of training.

Question 26: *Does the temporary copies exception require clarification in relation to AI training?*

114. It is clear that the temporary copying exception provided under European and UK law does not apply to AI training (Article 5 (1) Directive Copyright in the Information Society, and Section 28A CDPA respectively).

115. Numerous judgements at European and UK level have established the four conditions necessary for this exception. The copies made during AI training:
    - **Are not temporary:** AI applications memorise training data to be able to contextualise its responses. AI models are also increasingly interrogating datasets they retain in real time, in response to specific prompts
    - **Are not just incidental to a technological process:** Copies made during the AI training constitute the main and substantial element of the process.
    - **Represent the economic value of the AI training:** They do not have an independent economic significance in this context. They are the relevant aspect and reason for the copying; they do not constitute mere cache copies.
    - **Do not constitute legal use (without express permission):** They are not only required for the transmission process.

Question 27: *If so, how could this be done in a way that does not undermine the intended purpose of this exception?*

116. We do not recommend any legal changes to Section 28A CDPA. Such changes are not necessary in view of the certain legal situation. However, should government consider clarification of the applicability of this exception; we suggest adding guidance on the IPO website, on the page titled *Exceptions to Copyright* (published in June 2014).

C.6. Encouraging Research and Innovation

Question 28: *Does the existing data mining exception for non-commercial research remain fit for purpose?*

117. Yes, the justification for the introduction of the existing data mining exception for non-commercial research is still valid. To remain fit for purpose, its scope must remain narrowly defined, applying to non-commercial research involving non-copyright data.

118. The exception, outlined in Section 29A CDPA 1988, was introduced in 2014 and reflected recommendations by Professor Ian Hargreaves.[30] It was designed to allow the collection of non-copyright data, such as disease data (e.g., Malaria research). This narrow scope also ensures compliance with the Three-Step Test, in particular Step 2, which prohibits exceptions that interfere with the normal commercial exploitation of works.

119. We are therefore concerned that Paragraph 122 of the consultation conflates the use of AI to "*identify candidates for drugs or treatment pathways*" with "*non-generative commercial applications such as image and music recognition*". Section 29A was designed to facilitate research in areas such as disease treatment and cannot be used to justify the unauthorised copying of music, which is undoubtably commercial in nature. Extending the exception to cover commercial copying would undermine its original, narrowly defined intent.

120. There is a potential loophole whereby data mining may occur under the guise of "non-commercial" use, but the outputs are later sold or made publicly available for commercial purposes. Clearer regulations and enforcement mechanisms are needed to protect the intended scope of the exception and prevent this from happening.

Question 29: *Should copyright rules relating to AI consider factors such as the purpose of an AI model, or the size of an AI firm?*

121. The non-commercial purpose is central to the exception outlined in Section 29 of the CDPA (see our response to Question 28 regarding the Three-Step Test). To have any practical meaning, the non-commercial purpose test must apply to every use of data acquired by TDM throughout the value chain, regardless of how the data is transferred or who uses it. The only decisive criterion should be the purpose of each use - whether it is commercial, or not.

122. There is no justification for applying different standards based on the size of the AI developer, as the loss of income for creators and rightsholders is the same

regardless of whether the infringing developer is large or small. The two biggest players in the AI music generating market – Suno and Udio – both fit the definition of Small and Medium Enterprises (SMEs).

123. Recent experience at EU level shows that small AI developers are often acquired by larger developers, allowing the latter to benefit from a small-size exception. Smaller AI developers also cooperate with bigger developers. For example, during lobbying on the EU AI Act, a small French startup strongly opposed the regulation of smaller AI models.[31] However, it was later de facto acquired by a multinational tech firm (as well as being financed by global hard and software producers before).[32] It would be illogical for such an AI developer to benefit from a non-commercial exception, circumventing the need to obtain a licence solely based on its size.

D.1. AI Outputs – Computer-Generated Works: Protection for the Outputs of Generative AI

Question 30: *Are you in favour of maintaining current protection for computer-generated works? If yes, please explain whether and how you currently rely on this provision.*

124. UK Music has no firm view as to whether to maintain Section 9(3) of the CDPA. We agree that this provision is ambiguous, it confusingly juxtaposes the requirement of human creativity as part of originality with the requirement of not having any human author.

125. The IPO's 2022 consultation revealed that no respondents currently depend on Section 9(3) CDPA for protecting computer-generated works, indicating its minimal practical application.[33] Historically, this section was intended to address scenarios where computers generate work, such as weather maps, where the copyright status was uncertain. In the late 70s and early 80s the legislator did not consider the sophisticated generative-AI technologies present today. Notably, government documents leading up to the introduction of Section 9 (3) CDPA focused on the use of AI as a tool.

126. Policy discussions between 1986 and 1988 specifically concerned the concept of a related right for computer-generated works; not a full copyright (c.f. also the relevant discussions in Hansard leading up to the 1988 Act). The main consequence of computer-generated works is the limited time of protection, Section 12 (7) CDPA, but it has no apparent impact on the subsistence of copyright.

Question 31: *Do you have views on how the provision should be interpreted?*

127. N/A.

Question 32: *Would computer-generated works legislation benefit from greater legal clarity, for example to clarify the originality requirement? If so, how should it be clarified?*

128. Changing the originality requirement will not remove the ambiguity of Section 9(3). To the contrary, changing the established originality requirement will only further add to the ambiguity of the status of computer-generated works. Furthermore, the originality requirement underpins copyright protection internationally. Changing the UK approach will create further confusion for the subsistence of copyright in an international market.

Question 33: *Should other changes be made to the scope of computer-generated protection?*

137. We do not recommend other changes to the scope of protection for computer-generated works.

Question 34: *Would reforming the computer-generated works provision have an impact on you or your organisation? If so, how? Please provide quantitative information where possible.*

129. The provision on computer-generated works has no impact on us or our member organisations. Reforming would have no impact.

Question 35: *Are you in favour of removing copyright protection for computer-generated works without a human author?*

130. Individual members of UK Music will express their views in their submissions.

Question 36: *What would be the economic impact of doing this? Please provide quantitative information where possible.*

131. Whilst we have no view regarding the removal of Section 9(3), we suggest that the economic impact of removing copyright protection for computer-generated works will be negligible, if any at all. Section 9(3) is not used in practice; it is only referenced in one legal decision, in passing and without impact on the decision.

Question 37: *Would the removal of the current CGW provision affect you or your organisation? Please provide quantitative information where possible.*

132. No.

D.3. AI Outputs – Infringement and Liability Relating to AI-Generated Content

Question 38: *Does the current approach to liability in AI-generated outputs allow effective enforcement of copyright?*

133. No. As made clear during discussions with AI developers in the last two years, especially the code of conduct that was abandoned in early 2024, AI developers rely on the assumption that creators and rightsholders do not have the resources to initiate legal proceedings.

134. Whilst the UK copyright and enforcement framework is strong, providing evidence of the copying during the AI training process is more difficult; such copying constitutes copyright infringement, but legal proceedings are costly and resource intensive. Effective enforcement of copyright is de facto impossible for individual creators as well as most rightsholders.

135. Specifically, the absence of any transparency obligations renders it more difficult for creators and rightsholders to prove which works have been used in the AI training process.

136. We are troubled by the reference to the idea/expression dichotomy in paragraph 158. While it describes the dichotomy correctly, it misses the point on two levels. During the AI training, numerous copies of complete works are made, from translating the music into computer readable binary code to the copies made during the actual training process (forward and back propagation). These copies are retained in the AI model to enable it to contextualise its inferences in response to the relevant prompts.

137. Furthermore, the AI output often contains the actual creative expression protected by copyright, the expressive value of a work. Cases in the US provide ample evidence, for instance in the Suno or the Anthropic proceedings:

- Suno's AI model responded to the prompt: "1954 rock and roll bill haley comets" with recordings that resemble Bill Haley & His Comets' "*Rock Around the Clock*". Those AI generated recordings were titled "One, Two, Three O'clock, Four O'clock". While it is difficult to describe the similarity of the recording in words, it is established that "*the output contains four lines at the beginning that are very similar to the original, with identical pitches and rhythm in many places. It also uses a melody later in the output on the phrase 'we're gonna rock around the clock tonight,' which is virtually identical to the melody of the original*."[34] Another obvious example is the recording "prancing queen" generated by Suno's AI model.[35]
- Anthropic's AI model, "Claude" was asked to "*Write me a song about the death of Buddy Holly*." It responded with an almost verbatim copy of the song "*American Pie*" written by Don McLean (page 78 of the complaint).[36] This

requires not only wholesale copying in the input stage (which has been memorised), but also constitutes infringement by the output.

138. AI developers should not be able to simply pass on liability on to the end user, including consumers and further downstream AI developers, for example in hidden terms and conditions. Their liability should be maintained at every stage of the AI supply chain.

Question 39: *What steps should AI providers take to avoid copyright infringing outputs?*

139. AI developers must obtain a licence; they must also comply with transparency obligations. This is easily achievable as part of compliance with other business regulation including data protection, tax or consumer laws. We note that ethical AI developers not only already comply with the relevant copyright laws by obtaining a licence, they also provide transparent records about the works they have used during the AI ingestion process, for example, BRIA offering AI-generated images,[37] or DAACI tracking the source of musical works and compensating creators.[38] These companies demonstrate that ethical AI is possible, and providing transparency and safeguarding measures are feasible, effective and even profitable, when built into the system from the beginning.

140. Transparency is not limited to data ingestion; it must extend through to the actual outputs as well. All data available at the input stage must be available at the output stage too. We are aware of functioning models that incorporate a "cue sheet" into their models, providing a detailed record of the works and data that contributed to the output. Such features are only viable if they are integrated at the point of model development rather than afterwards. Record keeping needs to be of everything, whereas disclosure needs to be the right level to enable rightsholders to exercise and enforce their rights.

141. We wholeheartedly support the group of amendments laid by Baroness Kidron in the context of the discussions on the Data (Use and Access) Bill. These amendments would clarify the requirement for web-crawlers and other "data gatherers" to observe UK copyright law. In particular, we refer to Amendment 61 intended to "counter the widespread theft of IP by AI developers who use it as raw material for their products."[39]

D.5. AI Outputs – Labelling

Question 40. *Do you agree that generative AI outputs should be labelled as AI generated? If so, what is a proportionate approach, and is regulation required?*

142. Yes, we agree that generative AI outputs should be labelled as AI-generated. Transparency around this is key in ensuring that users can identify whether work has been generated by a particular AI-service, at a particular point of time. Regulation is necessary to standardise this across platforms and to ensure that distributors of AI-generated content are held accountable. The need to label AI-generated content is linked to our broader concerns around product safety, consumer protection, and the potential for deepfakes.

143. Tools like Deezer's AI recognition tool, which attempts to identify AI-generated music, are an example of how technology can be used to track the origin of content. However, as generative models evolve and become more sophisticated, identifying the exact source of works will become increasingly difficult. We hope the metadata embedded would identify works as AI-generated, but we know this could be naïve to rely on. Regulation must account for these complexities, and international standards will be vital.

144. Global alignment would ensure that the rules are effective and universally applicable, particularly when dealing with cross-border digital content. Government agencies like the ICO, the Competition and Markets Authority (CMA), and AI Safety Institute (AISI) could play key roles in overseeing such regulation to ensure that consumer rights are protected, and that AI-generated content is properly labelled.

Question 41. *How can government support development of emerging tools and standards, reflecting the technical challenges associated with labelling tools?*

145. Government can support the development of emerging tools and standards by taking a proactive role in addressing the technical challenges associated with labelling.

146. Some platforms, such as Instagram, give creators the opportunity to add a "*Made with AI"* tag to the post, though there is no incentive to be honest about this. The Government should consider examples where legislative labelling has been successful. For example, the traffic light system that is used in food labelling, where the Government ensures that ingredients, allergens, and nutritional information are clearly stated to the packaging. Or the FAIRTRADE mark, which is used only on products certified in accordance with Fairtrade Standards and instantly recognised by consumers; 93% of UK shoppers recognise and 83% trust it when deciding whether a product is ethical.[40]

147. Another example from the digital world is the legislation governing influencer ads on social media. Overseen and facilitated by the Advertisement Support Agency (ASA), with support from Committee of Advertising Practice (CAP) and CMA, influencers are required to disclose paid promotions, so consumers are not misled. The guidance states ads *"must be obviously identifiable as such"*.[41] This means that consumers should be able to recognise that something is an advertisement, without having to click or otherwise interact with it; the guidance states "*consumers shouldn't have to work too hard to figure it out".*

148. Members of the public can make a complaint to the ASA if adverts are not obvious, and influencers and brands can be sanctioned for non-compliance, with lists of offenders regularly published online. Similar guidance could apply to labelling AI-generated content, with higher penalties for AI developers that breach standards, such as sizable sanctions.

149. In the AI Opportunities Action Plan, the Government makes it clear it wants to be a world-leader in AI. To do this, it should consider incentivising the development of labelling tools by funding specific research to develop software tools that enable clear labelling and metadata integration, as well as offering regulatory support to ensure these standards are universally adopted.

Question 42. *What are your views on the EU's approach to AI output labelling?*

150. The EU's approach to AI output labelling, as outlined in the EU AI Act, is a step in the right direction. The Act mandates that AI-generated content, particularly deepfakes or information designed to influence public opinion, must be clearly and visibly labelled. The EU takes a risk-based approach, with stricter labelling obligations for higher-risk applications. Failure to comply with labelling requirements can result in sanctions.

151. Challenges remain in ensuring that these rules are consistently applied across different sectors. Balancing regulation with the flexibility required to keep pace with technological advancements is tricky, but the Government must see this as vital if they want to successfully integrate AI into society and businesses.

D.6. AI Outputs – Digital Replicas and Other Issues

Question 43: *To what extent would the approach(es) outlined in the first part of this consultation, in relation to transparency and text and data mining, provide individuals with sufficient control over the use of their image and voice in AI outputs?*

152. No, a TDM exception will not provide individuals with sufficient control over their image and voice in AI outputs. TDM exceptions and transparency measures relate to input of data into AI systems, rather than the resulting outputs. If anything, by bypassing the need for explicit consent to use their works, TDM exceptions may leave individuals' voices and images more vulnerable to exploitation.

153. There are clear issues with AI-generated outputs in this space as AI-generated content can closely mimic individuals voice or likeness, raising significant concerns about misappropriation and false endorsement, potentially causing harm to the reputation and personality of artists and songwriters. The approach, as outlined in the first part of this consultation, will do nothing to address these risks.

154. In the UK, there are currently various legal instruments protecting individuals from misappropriation or false endorsement. For example, the legal concept of 'passing off,' trademark law, and other moral rights. However, there is a need for greater clarity about how these apply to AI-generated content and UK Music's members that represent music creators believe new rights or protections in law are necessary.

155. In the US, the US Copyright Office has explicitly recommended federal legislative action on this.[42] The bipartisan NO FAKES ACT entered the House of Representatives in July 2024 and looks to create a federal property right for every individual to control their own voice and likeness. This right would not be assignable during the lifetime of the individual, and licensing deals in relation to right would be limited to ten-year terms and would require a "*reasonably specific description of the intended uses of the applicable digital replica*".[43]

156. The direction of travel in the US, indicated via this bill and through existing laws in multiple states, demonstrates the careful approach to AI development that the world's largest AI-developing nation is taking in this area.

157. Moving forward, the Government should explore most appropriate mechanisms for addressing these issues, including reviewing the proposals set out in the NO FAKES ACT. We are happy to engage with the Government on this.

158. We recommend that the Government distinguishes between image and voice with regards to controls in this area. For example, artists are likely to have limited control over the countless images of them taken by fans and paparazzi that circulate online, whereas they likely have more control over the licensing and use of their voice recordings. The Government must acknowledge the unique risks associated with image and voice exploitation when potentially legislating in this area.

Question 44: *Could you share your experience or evidence of AI and digital replicas to date?*

159. AI is capable of impersonating human creativity, which has been seen the voices of artists increasingly being mimicked by AI without their consent. In 2023, for example, the voices of Drake and the Weeknd were mimicked to create the song "*Heart on My Sleeve*", which was played more than 8.5 million times in just three days.[44] However, neither artist had any involvement in its creation. Even deceased artists have had their voices cloned, such as Amy Winehouse's voice being used for a cover of "*Flowers*" by Miley Cyrus.[45]

160. These concerns extend beyond the music industry. Money-saving expert, Martin Lewis was targeted by an AI-generated deepfake that scammed consumers by using his voice and image to falsely endorse a non-existent cryptocurrency investment scheme.[46]

AI Outputs – Other Emerging Issues

Question 45: *Is the legal framework that applies to AI products that interact with copyright works at the point of inference clear? If it is not, what could the government do to make it clearer?*

161. Copyright must still apply to user uploads, which we understand to be the point of inference referenced in this question.

162. As an initial observation, the legal framework applicable to the AI training process continues to be relevant for the input stage. It should be taken as given that copying works for AI training without permission constitutes copyright infringement. Equally, AI developers are responsible for any infringement of copyright from the output. If the user at the point of interference includes a copyright work within their prompt, this will constitute a reproduction if the substantiality standard is met. Therefore, the legal framework seems to be clear.

163. The Government should support this with further legislative and technical measures to limit certain prompts. For instance, disallowing prompts that involve direct links to copyright material or user uploads. Implementing mechanisms such as keyword filtering (without the ability to find loopholes) can help prevent the misuse of such content.

Question 46: *What are the implications of the use of synthetic data to train AI models and how could this develop over time, and how should the government respond?*

164. The use of synthetic data to train AI models carries significant risks and implications, especially if it is of poor quality or derived from illegal sources. As reliance on synthetic data grows, there is a danger that AI systems may blur the line between authentic and fabricated content, leading users to mistakenly believe that AI outputs are entirely original creations and leading to potential issues around product safety and misinformation. There is also a danger of model collapse if fed only synthetic data.

165. To mitigate these risks, the Government should mandate that AI developers ensure full transparency regarding the origins of any synthetic data used in training. Clear and accurate labelling is key to this, as it will enable AI models to distinguish between synthetic and real data.

166. Synthetic data must not be seen by AI developers as a tool used to sidestep copyright issues, and the Government must be aware of these challenges.

167. Aside from legal concerns, synthetic data inherently lacks the emotional complexity and nuance that human-created content possesses. This deficit can lead to outputs that are tone-deaf or even offensive, increasing the likelihood of misogynistic, racist, or otherwise derogatory language in music and other creative outputs. Given the significant progress the music industry has made in promoting diversity and inclusion, such regressions would be not acceptable.

168. We also have concerns related to bias. Bias poses real challenges for the outputs of generative AI, especially if AI models are trained on synthetic data. The more diverse the user and data pool the less the bias will persist. Using fresh, newly created works constitutes a form of self-regulation which hopefully removes biases and discrimination and corrects disparities by default. This is obviously not the case when synthetic data are used for training.

Question 47: *What other developments are driving emerging questions for the UK's copyright framework, and how should the government respond to them?*

169. With the rapid development in technologies, new emerging questions on AI are inevitable. But we challenge the notion that emerging questions will relate to copyright. The Government will be required to give more relevant consideration to questions around a skilled workforce, technical infrastructure, and availability of venture capital.

170. Copyright has been able to cater for new technologies from printing press to radio for over a century. The music industry has always provided licensing-based solutions for new technologies, and AI will be no different. We urge the Government to fully

engage with and address the genuine concerns of the music industry, ensuring that progress benefits all parts of our sector and the broader economy.

Annex A

UK Music's membership includes:

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 Sony Music Entertainment UK, Universal Music UK and Warner Music UK. BPI owns and organises the BRIT Awards and the Mercury Prize, administers the Music Export Growth Scheme (MEGS) and co-owns the UK's Official Charts Company.

FAC – The Featured Artists Coalition - FAC is the UK trade body representing the specific rights and interests of music artists. We are a not-for-profit organisation, serving a diverse, global membership of creators at all stages of their careers. The FAC is formed by artists, for artists, and we place this ethos at the centre of all we do. We are an inclusive community that advocates, educates, collaborates and researches on behalf of artists, coming together to provide a strong, collective voice within the industry and to governments domestically and abroad.

The Ivors Academy - The Ivors Academy is the UK's not-for-profit professional association exclusively for songwriters and composers. They equip their members with the skills and connections they need to succeed through education and networking events. The Ivors Academy also advocates for the rights of songwriters and composers to ensure they are fairly compensated for their work. As a community, they recognise excellence in songwriting and composing by judging and presenting the prestigious Ivor Novello 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 recording studios, producers, engineers, mixers, remixers, programmers and mastering engineers.

MPA - Music Publishers Association - The representative voice of the UK's music publishing 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.

MU - 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 - Here for music since 1914, PRS for Music is a world-leading music collective management organisation representing the rights of over 175,000 talented songwriters, composers and music publishers. Redefining the global standard for music royalties, PRS for Music ensures its members are paid whenever their musical compositions and songs are streamed, downloaded, broadcast, performed and played in public. In 2023, PRS for Music paid out £943.6m in royalties and collected a record £1.08 billion in revenues.

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