International Association of Music Libraries, Archives and Documentation Centres
United Kingdom and Ireland Branch
Serving the profession since 1953

IAML (UK & Irl) Response to IPO Consultation on Copyright and Artificial Intelligence

IAML (UK & Irl) is the professional association which represents the interests of institutional and individual members involved in the provision of music library services throughout the United Kingdom and Ireland. It is a cross-sectoral organisation whose members include public, academic, national, special and broadcasting music libraries, as well as representatives of music publishing (with whom we have a good relationship in the UK) and library supply. IAML (UK & Irl) is also in a position to represent the rights of music users generally, as they are our customers and have few avenues of formal representation. Therefore we represent the public good as opposed to commercial interests, although as some of our members are also rights holders we are in a position to have a balanced overall view.

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

We don't believe that any of the options proposed meet the objectives. Option 1 would result in much smaller data sets and thus not meet the access objective. Option 2, as it stands, would meet the access objective but doesn't provide for the remuneration of rights holders. Option 3, whilst set out as a compromise, would in practice bring about the least desirable aspects of both options 1 and 2 (as further detailed in question 3).

Our position is set out in the following three questions.

Question 2 Which option do you prefer and why?

Our preference would broadly be for option 2, but with a specific carve-out for instances of generative AI resulting in outputs of substantial similarity to the individual works they are trained on, for which a licensing solution should still apply. This is described in further detail in question 4.

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

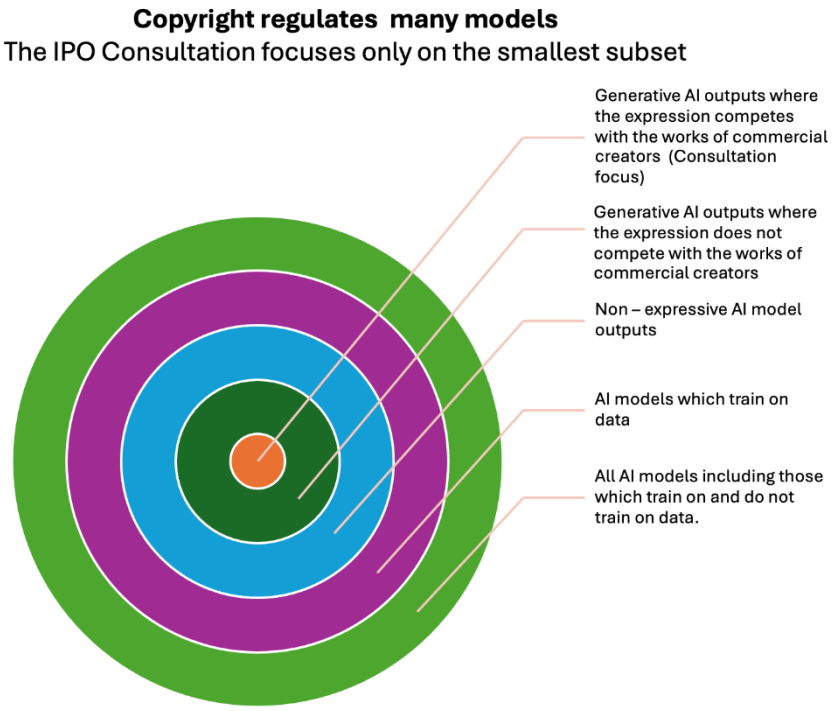
No. Music industry organisations have been very vocal in their support of option 1. The big players would inevitably choose to opt out their repertoire. At the same time, the long tail of small creators – not represented by large companies or groups – would be less likely to realize they could opt out, and have less resource at their disposal to do so. These creators' work would be used without their express permission and without any recompense to them.

As an organisation we understand the concerns of creators, and are supportive of a balanced regime which maximises access whilst ensuring fair remuneration. We don't believe that the exception proposed by option 3 meets that objective.

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?

This consultation has been unhelpfully presented as a dichotomy between creative industries and tech companies and seems to have been framed entirely on the basis of generative AI models. This insufficiently nuanced approach fails to recognize:

- Many creators use AI themselves and therefore need access to these models – many developed in the USA under fair use – facilitated by a balanced copyright system.
- The government overlooks the educational, research, and scientific innovation sectors which are crucial not only for the development of AI technologies but also for generating social, cultural, and economic value by utilizing or integrating AI models and applications.
- Generative AI is the smallest subset of AI model, and yet is the one upon which this consultation seems to be entirely predicated.
- The whole consultation conflates text and data mining (which existed long before AI) with the training of generative AI systems, which is unlikely to result in a satisfactory solution for either scenario.



As an organisation, IAML (UK & Irl's) stakeholders include a broad spectrum of music users, including music students, researchers, amateur and professional performers and composers. There are many uses of AI and a one-size-fits-all approach will always be to the detriment of some of these stakeholders. In considering the broad spectrum of AI uses we believe the proposal focuses on the wrong part of the AI life-cycle. The purpose of copyright is to regulate substantial similarity between works. Many uses of AI (e.g. for big data computational analysis) do not produce an output of any similarity to the material that was input. If the UK is to compete internationally it must follow the example of countries such as

Japan, Singapore, the USA, Israel, Canada, Taiwan and South Korea by adopting copyright exceptions that permit commercial and non-commercial organisations to analyse data and train AI models on publicly available or lawfully acquired content. Where there are examples of generative AI that may produce substantially similar outputs to works protected by copyright, and therefore compete with the works of commercial creators – the smallest section of the diagram above – it should be at the output stage that a remunerative mechanism is exercised (where the use of that output doesn't fall under another exception within CDPA1988.) Unless targeted solutions are adopted that mitigate where demonstrable harms arise, we risk creating data laws that undermine all other sectors of the economy.

Copyright's purpose is not to regulate every copy made by machines that cannot be perceived by a human audience – it is designed solely to address substantial similarity. If the government intends to compensate specific subsections of rightsholders for "mere automated copying" by machines, or for output works that show no substantial similarity to the original works, remedies should be pursued outside of copyright law (e.g. levies on copying media or taxation of large digital platforms). Copyright – which applies horizontally across all types of work and would therefore more broadly impact on research and innovation – is not the appropriate instrument for this, as it is not its intended function.

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.

As explained, our organisation represents libraries and their users across research, educational and creative sectors and there are many ways in which AI may be deployed.

We accept the validity of fears that AI may result in, for example, the generation of a new musical work that is substantially similar (or even identical) to an in-copyright composition it has been trained on. This would clearly be an infringement of copyright if a licensing arrangement hadn't been made.

However, consider the amateur choral conductor who enters the following prompt: "*create me a list of sacred choral works written in the last 50 years in which the tenor line never divides and the bass line never goes higher than middle C*". The generated output would not infringe copyright and indeed would likely benefit creators in terms of sales/performance income.

This further exemplifies the problem of applying a single regime to all uses of AI and why a more targeted solution is required which focuses on the nature of the output.

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

We do not have the data to provide an authoritative response to this, but would advocate that contracts between creators/performers and their publishers should expressly deal with these rights if subsequently it is the publishers who enter into licensing agreements with technological platforms.

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

Yes. The government should encourage the development and adoption of best practice standards for transparency industry-wide, so that AI developers take a consistent approach to citing their sources.

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

Best practice around this needs to considered carefully factoring in the different contexts in which generative AI is developed. Key stakeholders and experts should be involved in the development of standards.

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

See answer to q 18 – standards should be developed using the same approach.

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

We fully support the principle of transparency, but the practicality of implementation should be a key factor in devising appropriate standards, and measures should be implemented with careful consideration.

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

Compliance can be encouraged by setting a suitable level of effort and practicality based on the context. Standards should be developed in collaboration with key stakeholders through industry-wide cooperation and consensus on best practices, without the need for regulatory underpinning.

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

As recently mentioned in a European Commission study, obligations such as those established in the AI Act, requiring detailed summaries of the data used for training, can "*add a layer of compliance costs for research organisations*"[1]. Many of the smaller players in the EU have found the requirements unworkable, so the UK should learn from this and avoid the creation of an overly burdensome system.

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

Yes. It should be clarified that all automated copies of works made by a computer that are not intended for human enjoyment should be exempt, as is the case in Japan. Copyright is meant to protect against substantial similarity that can be perceived by humans—only when a work is intended for human enjoyment does it become a legitimate concern of exclusive rights. To foster data-driven innovation, invisible data processing should be made lawful

Regarding AI, this approach would maximize the training data available to AI models, resulting in more accurate and competitive models.

Challenges only arise at the output stage, and this is where the focus of policymakers and regulation should lie.

Yes, S28A of CDPA 1988 should be broadened to clarify that all acts of extracting informational value from copyright works in this way fall outside of the scope of copyright. Over the years, the reproduction tight has expanded far beyond the original scope and purpose of copyright. A recent report of the European copyright Society reminds us that the 'policy choice of including any technical, even if fugitive, fixation of a work within the scope of reproduction right, made by the EU lawmaker as early as the 1991 directive on computer

[1] https://www.osa-openscienceaustria.at/wp-content/uploads/2024/05/improving-access-to-and-reuse-of-research-results-KI0224038ENN.pdf

programs, could have been different and remains challenged by several copyright scholars.'[2] This is now a timely opportunity for the UK government to bring copyright back to its original goal: to protect against substantial similarity that can be perceived by a human. This would emulate the Japanese approach – a jurisdiction with strong AI and creative industries.

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

S28a was implemented on account of it being a mandatory exception within the Copyright and Information Society Directive 2001, but no longer reflects the current technological landscape. This is the opportune moment to reframe it in technologically-neutral language in order to future-proof it in a climate of rapid technological change.

We would support the rewording proposed in the Libraries and Archives Copyright Alliance's consultation submission:

28A Extracting informational value and other technical uses

Copyright is not infringed by the copying of works which is transient or incidental, is an integral and essential part of a technological process, is aimed at extracting informational value from the work, or by any other technical use of the work that does not involve or cause a human audience to enjoy the work.

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

No. There are a number of reasons why this exception is not fit for purpose in the current research environment, which should be addressed as part of this reform.

The principal issues are:

- It doesn't support collaborative work between educational or other non-commercial organisations who often work together on projects (often publicly funded) but as it stands cannot create or share data sets without proper authorization
- The commercial/non-commercial dichotomy is artificial and out-of-date, with public-private partnerships now commonplace.
- There is no satisfactory legal mechanism to circumvent Technological Protection Measures (TPMs) when these prevent the ability to copy material which can be legally mined under this exception.[3]
- Unlike the EU TDM exception for scientific research, there are no data retention safeguards in the UK exception, with implications for the reproducibility and replicability of research over time.

Some of these issues (e.g. the commercial/non-commercial distinction) are hangovers from when the UK was bound by EU law, but without this restriction the time is now ripe to reconsider this exception.

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[2] Copyright and Generative AI: Opinion of the European Copyright Society (January 2025). Available at: https://www.create.ac.uk/blog/2025/02/07/opinion-by-the-european-copyright-society-on-generative-ai/

[3] See Erickson, E. et al. (2024). Evidence on Technological Protection Measures: impact on research, education and preservation. Available at: <https://www.create.ac.uk/project/public-domain/2024/06/16/evidence-on-technological-protection-measures-impact-on-research-education-and-preservation/

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?

Absolutely. As previously stated, we believe the nature of the output, and specifically the level of similarity to the material it is trained on, to be the fundamental factor on which to base decisions on what constitutes a fair and appropriate copyright regime.

Machine learning encompasses a diverse range of models, some of which do not require training at all, while many others neither generate nor have the capacity to generate outputs that bear substantial similarity to those produced by generative AI models. In the United States, such models are classified in the academic discourse as "non-expressive" machine learning models, with case law decisively affirming their protection under fair use principles.[4]

A broad-brush approach which doesn't differentiate between these different types of models will be detrimental to all stakeholders.

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.

No. We concur that the protection afforded to computer-generated works in the UK has likely not contributed to the advancement of AI technology, nor has it encouraged its use. We are not aware of any evidence to suggest that AI innovation is motivated by the potential for licensing computer-generated works. Furthermore, we fail to see the rationale for protecting outputs generated by users of these tools (unless significant human creativity and effort are involved, such as in the"AI-assisted" works referred to in the consultation document – which should be defined as literary, musical etc. works in the usual way and be afforded the usual protections for those works). To simplify the UK's copyright framework, we believe the computer-generated works protection should be abolished.

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

We believe s9(3) should be removed, along with any other related provision, e.g. s12(7).

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?

It would be useful for the legislation to define what is meant by computer-generated works (substantially created by a computer) vs computer or AI assisted works which are substantially created by a human (which does receive protection). It will also be important for the language to be future-proofed.

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

We believe our answers above cover all the changes required

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.

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[4] *A.V. ex rel. Vanderhye v. iParadigms, LLC*, 562 F.3d 630. *Authors Guild, Inc. v. HathiTrust*, 755 F.3d 8. *Authors Guild v. Google,* 804 F.3d

We are not aware of any impact on our organisation or stakeholders.

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

Yes, as described above.

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

We are not aware of any impact on our organisation or stakeholders.

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?

Yes. Best practice standards should be agreed and implemented with government support to ensure that publicly-accessible generative AI outputs are labelled accurately as such to mitigate the proliferation of misinformation and the risk of harm to consumers of the information.

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

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

The EU AI Act rightly recognises the importance of "reliable, interoperable, effective and robust" labelling and captioning to improve the effectiveness of this practice. Any best practices developed in the UK should do likewise.