

BPI SUBMISSION - DATA (USE AND ACCESS BILL): CALL FOR EVIDENCE MARCH 2025

BPI – the voice of the UK’s recorded music industry - welcomes the package of amendments to the Data (Use and Access) Bill introduced by Baroness Kidron OBE in the House of Lords. These amendments look to create a framework in which human creativity and technology can thrive in partnership in the UK.

BACKGROUND

The UK is a world leader in music, not only because of our incredible talent, but because of our gold standard intellectual property (IP) rights framework which is enshrined in UK law. This is the bedrock of the creative industries and gives rightsholders and creators control over their creative works and importantly provides remuneration for any use of these. It is crucial that these standards are maintained if British music is to continue to grow and add value to the economy as the Government anticipates in its Industrial Strategy.

The music industry has always been at the forefront of innovation, embracing new technologies to support human creativity and enhance fan engagement, and we are already seeing many successful examples of artificial intelligence (AI) being used.

Generative AI, which uses models to create new content, is specifically where issues are being experienced in relation to IP. Currently, the majority of generative AI developers are training their AI models on music protected by copyright without authorisation or payment. This type of ‘ingestion’ of copyrighted materials by companies is illegal, morally wrong and devalues human creativity.

The Government outlined four options within its recent *‘Copyright and Artificial Intelligence’* consultation and has stated a preferred course of action (option 3), which consists of introducing a broad text and data mining (TDM) exception to copyright with a rights reservation system. This will be hugely damaging to the music industry and wider creative industries as it would allow global tech companies to train AI models using British music – and every other piece of art that has ever been made in the UK - for free, and without authorisation, unless rights holders ‘opt-out’. However, this is currently impossible to do in practice.

Fundamentally, there is no case for this proposed change to copyright law, which is fit for purpose. The issue identified by the Government is not due to copyright law being unclear, it is due to AI developers not wishing to seek authorisation, license and remunerate creators and rightsholders for their content.

Instead, the Government should focus on the following:

- **Maintaining the existing UK gold standard copyright framework:** We reject assertions that the current law is uncertain. Rather, it enables licensing of music and promotes growth and innovation.
- **Introducing transparency requirements:** Without adequate and meaningful record keeping obligations, AI training is a ‘black box’ that prevents rights holders exercising their rights effectively.
- **Ensuring a level playing field:** Introduce new measures to ensure that AI models and outputs comply with UK laws and regulations when they are marketed in the UK regardless of where they were developed, trained or generated.
- Pursuing more effective, **non-copyright incentives to attract AI innovation**, such as tax incentives.

Please see further information relating to the amendments below.

AMENDMENT 61

The Government has rightly identified in its consultation the issue of international interoperability, reflecting the fact that many AI models are not trained in the UK under our laws which presents a risk to creative content.

The Government should introduce measures to ensure liability for AI developers that attempt to circumvent UK rules by training their model in another jurisdiction in a manner that is not compliant with UK law – and then bring it to the UK market. In other words, an AI developer that wants to bring a commercial model to the UK must develop it in accordance with UK laws, including copyright, regardless of where the training took place (similar to the provision in the EU AI Act). This discourages forum-shopping and an unwarranted ‘race to the bottom’ in standards, whilst ensuring a level playing field for UK AI companies and those companies who are looking to seek authorisation and license appropriately.

The music industry is built on licensing and rights holders, including most major BPI members, are already engaged in conversations with AI developers. There is an emerging high growth market for training data of all kinds, including copyright-protected material, that will drive higher quality AI applications as well as a healthy supply chain/ecosystem that returns value to the ‘real life’ industries providing raw data. One international study estimates the market for training data was worth nearly \$5 billion in 2024 and is set to grow to over \$34 billion by 2033.¹

The only lawful method for AI developers to access copyright-protected materials to train their systems is through licences from the rights holder. There are plenty of companies who have developed their systems using licensed music, as evidenced by [Fairly Trained](#), which offers certifications to good actors who respect copyright.² Ed Newton Rex, former Vice President of Audio at Stability AI, Founder and CEO of Fairly Trained and leading commentator on AI and creativity wrote a paper on the AI licensing market, detailing multiple agreements between major rights holders and generative AI companies that authorise the use of copyright-protected material for AI training.³

The Government’s consultation suggests that the UK is seeking greater alignment with the EU. Yet there is no evidence that the EU’s TDM exception with rights reservation has given the EU a competitive edge in either AI innovation or the creative industries, despite being introduced a number of years ago (in 2019). EU policymakers themselves acknowledge there are significant issues with the workability of and adherence to the exception and machine-readable rights reservation mechanisms.⁴

Meanwhile the US has not achieved its position as a global leader in both AI innovation and the creative industries by diluting its copyright regimes:

- The US has no TDM exception.

¹ <https://www.businessresearchinsights.com/market-reports/ai-training-dataset-market-110110>

² <https://www.fairlytrained.org/certified-models>

³ <https://ed.newtonrex.com/ai-licensing-market>

⁴ See <https://www.theguardian.com/technology/2025/feb/19/eu-accused-of-leaving-devastating-copyright-loop-hole-in-ai-act> and acknowledgement in [Call for Tender](#) that opt out regime is not working

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- A number of AI developers are seeking to rely on the US concept of ‘fair use’ as a defence to copyright lawsuits, but this is strongly contested by rightsholders from music, film, news and book publishing.⁵
- The first substantive court decision in the US on fair use in the context of AI training found that the use of copyright-protected content to train an AI model amounted to copyright infringement and that the fair use defence was not applicable.⁶

AMENDMENT 62 & 63

Transparency is the single best way for the Government to encourage licensing, accelerate the development of a legitimate marketplace for AI and copyright-protected materials, and grow the UK economy.

AI developers should disclose the sources of their training material – this is fundamental to rights holders’ ability to exercise their rights - whether via litigation, licensing or both. While there has been resistance by AI developers to provide sufficiently detailed transparency to achieve this, including claims that this would impact trade secrets, there is no basis for this. Rather, this is an attempt to hide unlawful activity, as recognised by the judge in the Kadrey v Meta case.⁷

The music industry requires AI developers to provide detailed information on training inputs – including work-by-work information regarding the copyright-protected works to which those parties have a legitimate interest. This information must include:

- sources from which the content was obtained, (e.g. specific URLs)
- the date and time the content was obtained and used for training
- the legal basis for its access and use
- a sufficient identifier for the work that was used, e.g. in the case of recorded music, the names of the recording artists, the track titles, and/or ISRCs (standard identifiers for recordings).

Without this level of granularity, it is incredibly challenging for rights holders, such as BPI members, to exercise their rights (whether to license or litigate).

Transparency and record keeping are vital to ensure responsible and accountable AI development as highlighted in the UK’s previously published white paper ‘*A pro-innovation approach to AI regulation*’⁸, which includes ‘Appropriate transparency and explainability’ among its five core principles.⁹ Yoshua Bengio also noted in the January 2025 ‘*International AI Safety Report*’ that “*Transparency is the most powerful tool that governments can use right now*”.¹⁰

⁵ The concept of fair use – currently the subject of litigation - is very limited. We are confident the courts will conclude that fair use does not apply to the blanket ingestion of copyright material. This would confirm that the UK and US copyright frameworks are aligned on this point.

⁶ <https://www.reuters.com/legal/thomson-reuters-wins-ai-copyright-fair-use-ruling-against-one-time-competitor-2025-02-11/>

⁷ <https://www.wired.com/story/new-documents-unredacted-meta-copyright-ai-lawsuit/>

⁸ <https://www.gov.uk/government/publications/ai-regulation-a-pro-innovation-approach>

⁹ alongside closely related principles of ‘accountability and governance’ and ‘contestability and redress’.

¹⁰ https://assets.publishing.service.gov.uk/media/679a0c48a77d250007d313ee/International_AI_Safety_Report_2025_accessible_f.pdf

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To avoid ‘AI laundering’, it is critical that the transparency and record keeping obligations apply to all generative AI systems that are made available in the UK or that generate output in the UK, regardless of the jurisdiction in which the development may have taken place. They must also apply to generative AI systems developed by universities or research institutions, including open-source generative AI systems, which may later be used for commercial purposes.

Entities that deploy web crawlers should comply with the same transparency obligations outlined above. They should also disclose their crawling activity, including crawler identifiers, the period of data collection and entity responsible for each crawler, and a description of each format/type of instructions that the crawler respects.

There is broad consensus that purely AI-generated materials made available to consumers should be labelled as such. Effective labelling depends upon disclosure through the supply chain and therefore transparency is vital for consumer protection also.

AMENDMENT 44A & 64

The ‘issue’ in the AI and copyright space is not copyright law itself but the lack of compliance with it. Given that AI companies are not complying with copyright law as it stands, a robust and enforceable legal framework is the best way to incentivise compliance.

Compliance with transparency requirements also needs legal and/or regulatory underpinning. AI developer’s obfuscation, as recognised by the judge in the Kadrey v Meta case¹¹, is clear evidence of this. Compliance should be a prerequisite of market access. To incentivise compliance, the failure by an AI developer to maintain accurate records of the materials used to train their systems and disclose those records to legitimate stakeholders should give rise to a rebuttable presumption of infringement.

In addition, meaningful fines as determined by the court and corrective measures, such as the deletion of a data set, should be introduced.

AMENDMENT 65

BPI is supportive of the Government working with industry to assess technical solutions which help enforce our existing rights as set out in copyright law. We feel that this should accompany the introduction of robust transparency obligations and a statement of policy, reconfirming the status of copyrighted material and that AI training on copyrighted creative works is unlawful without authorisation.

¹¹ <https://www.wired.com/story/new-documents-unredacted-meta-copyright-ai-lawsuit/>

ANNEX

1. THE UK IS A MUSIC POWERHOUSE

- The UK's music industry is world renowned and economically significant. Its contribution to the UK economy was £7.6 billion (GVA) in 2023 while employment in the music industry rose to 216,000.¹²
- The UK has the third largest recorded music market globally and the largest market in Europe¹³ and is the second biggest exporter of recorded music in the world after the US. The value of British recorded music exports grew to a new annual high of £775 million in 2023 – a rise from £709 million in 2022 and £590.8 million in 2021¹⁴. The UK's recorded music exports have the potential to rise to £1 billion by the end of the decade with the right policy environment in place.
- The UK is known around the world for its music but global competition is fiercer than ever and our success should not be taken for granted.

2. ABOUT BPI

BPI is the voice of the UK's recorded music industry. Our membership comprises of nearly 500 music businesses across the UK, including hundreds of independent SME record labels, as well as the three largest music companies - Sony Music Entertainment UK, Universal Music UK and Warner Music UK.

This is a fundamental time for both emerging technologies and the UK's creative industries. BPI is pro-technological innovation and is one of the first music industry trade bodies in the world to establish a designated innovation department, which sets a clear vision for BPI as a future-facing and trailblazing organisation. BPI collaborates with UK and international partners, investors, record labels and entrepreneurs, to tap into the rich opportunities that come from music and tech partnerships.

If you would like any more information, please get in touch via publicaffairs@bpi.co.uk.

¹² <https://www.ukmusic.org/wp-content/uploads/2024/11/TIM-Report-2024-reduced.pdf>

¹³ https://ifpi-website-cms.s3.eu-west-2.amazonaws.com/IFPI_GMR_2024_State_of_the_Industry_db92a1c9c1.pdf

¹⁴ <https://www.bpi.co.uk/news-analysis/british-annual-music-exports-increase-to-record-high-of-775-million-as-uk-artists-continue-to-rank-among-world-s-biggest-music-acts>