Channel 4 Submission to the Public Bill Committee – Data (Use and Access) Bill [Lords]

- The UK's creative industries are thriving – bringing £1.25bn to the economy - driving growth and skills – employing 2.4m people - and seizing the opportunities of digital technologies and better use of data.
- Generative AI will create significant opportunities for the UK economy, for the audiovisual (AV) sector and for our audiences. However, unlocking this growth potential and maximising the opportunities of tech in our sector requires creators to be fairly paid for the use of their content, through licensing, transparency requirements and enforcement.

What is needed?

- **Collective licensing arrangements:** Given the complexities of the underlying rights of AV content, a mechanism for collective licensing and distribution of rights income is essential.
- **Transparency from AI developers:** AI developers should be required to disclose key information including the datasets that models are trained on, and clear information about how web crawlers operate.
- **Enforcement:** A dispute resolution process and strong enforcement measures, which must also apply where an AI model operating in the UK has trained on UK data without consent in another jurisdiction.

How could this be delivered?

- We believe that the clauses tabled by Baroness Kidron at Lords stage, particularly those relating to transparency and enforcement could help deliver this. Therefore, we would urge the Public Bill Committee to vote in favour of retaining Clauses 95(1) and 135-139 summarised below. These are practical, sensible amendments that could support a valuable and thriving industry, while looking forward to new technical efficiencies as they emerge: -
    - **Clause 95(1)** - Analysis of performance. This provision would require a report on the Information and Commissioner's Office ("ICO") regarding its performance of the duties assigned to it by clause 64.
    - **Clause 135** - Compliance with UK copyright law. This clause will ensure that the operators of web crawlers (the internet bots that copy news publishers' websites) and general-purpose AI models comply with UK copyright law, including the Copyright, Design and Patents Act 1988 ("the CDPA"), regardless of the jurisdiction in which the scraping of content or GAI training takes place.
    - **Clause 136** - Transparency over crawler identity and purpose. This clause will require operators of internet crawlers and general-purpose AI models to be transparent about the identity and purpose of their crawlers; operate distinct crawlers for different purposes; and not penalise copyright holders who choose to deny scraping for GAI by downranking their content in, or removing their content from, a search engine.
    - **Clause 137** - Transparency of copyrighted works scraped. If GAI developers use copyrighted content without permission, publishers must be able to identify this illegal use and seek redress. This clause will be crucial in making UK copyright law enforceable by requiring operators of web crawlers and general-purpose AI models to be transparent about the copyrighted works they have scraped.
    - **Clause 138** - Enforcement of these provisions – both via a regulator as well as through private enforcement by copyright owners - will be critical to their success. This clause applies powers already exercised by the ICO under the Data Protection Act 2018 to the above provisions, with significant penalties – including fines – for non-compliance.
    - **Clause 139** - Technical solutions. This clause requires the Secretary of State to conduct a review of technical solutions, such as watermarking, that could allow copyright holders to identify unauthorised scraping by GAI firms. Such technical solutions could aid copyright holders in asserting their rights.