

Copyright and AI Consultation
Intellectual Property Office
Concept House
Cardiff Road
Newport
South Wales NP10 8QQ
CopyrightConsultation@ipo.gov.uk

Wednesday 5 February 2025

Dear Sir or Madam

Copyright and AI consultation

Thank you for the opportunity to respond to your consultation on Copyright and Artificial Intelligence. We are commenting on the overall ethos of your paper rather than answering specific questions, and we are also using for context the Prime Minister's speech outlining his AI Action Plan, and the Industrial Strategy as relating to the Creative Industries.

Our company is a Software as a Service (SaaS) platform used by performers for marketing and advertising purposes. A Spotlight subscription fulfills a function for many performers allowing them to showcase their skills and talent to those that may wish to cast them. We have been in existence for almost 100 years and we are an essential part of the success of the creative industries. With our sector outperforming many areas of the economy, we play an important part in the creative industries' ability to remain globally competitive.

Our company is based in the United Kingdom, but we are owned by an American company called Talent Systems. Talent Systems is a provider of casting and production platforms developed to help entertainment industry professionals, in a wide range of roles, work efficiently and effectively. As a technology driven company, we understand the need for the UK Government to look at Copyright and AI in this way, and we welcome the opportunity to bring our experience and understanding to that dialogue. We constantly review how our platforms work, what can and should be improved or changed, to ensure that we offer the best and most appropriate platforms for our customers' requirements. As such, we understand the transformative opportunities AI presents in helping us deliver this, but we are also aware that performers have concerns that should be addressed. We therefore welcome the sections of the consultation that seek to address those concerns.

It is vital that AI is harnessed responsibly, augmenting creativity but respecting the privacy and rights of all those performers in the entertainment and creative industries that use our platform. As part of

Talent Systems, we are committed to striking the right balance between providing the best platform for our users and upholding values of creativity, privacy and integrity as AI use evolves.

The consultation rightly identifies the importance of the creative industries in the growth of AI, and it has been selected as one of the key eight pillars of the Industrial Strategy by the Government. Performers are the face of the UK, whether they work in TV, film, gaming or advertising. They are essential to how we are seen across the world and they are the ambassadors for our cultural output when they appear on screens however large or small. Any strategy to deal with AI must have their interests, both financial and reputational, at the forefront of any decision making. This is particularly important because the use of AI in the production of creative works has proliferated exponentially. AI is now used to generate, copy or mimic performances often using source material that does not have permissions available for that use.

Actors and performers do not have the same copyright protections for their work as writers or directors. At present the Copyright, Designs and Patents Act 1988 provides that a performer is able to control the recording and use of a performance. However, in practice consent is usually given through a contract for the exploitation of that performance as part of the works they have contributed to. A performer also has moral rights, whereby they have a right to be credited for their performance and that there should be no derogatory treatment of the performance. There are also privacy rights which may protect voice, face and likeness use and what is provided in the performers contract. However, while AI can create creative freedoms, there needs to be a balance with fair compensation for those whose work is used to enable that creativity. Within the UK, there is growing concern about how generative AI might seek to replicate performers' faces and voices. Indeed, in the US there have been recent court cases relating to the use of likeness for named high profile performers. This consultation is an opportunity to get things right for performers in the UK.

Copyright clearance for audiovisual works has been something our industry has managed for many years. When a performer is contracted, they will be asked to consent to their voice performance and likeness being filmed and recorded for the purposes of that work. Separate consent and individual remuneration is not possible in the vast majority of cases. It is good, therefore, to see that in point 16 (Digital Replicas) the consultation questions whether when AI generated content uses a person's voice, image or personal likeness, the current legal framework is sufficient to provide individuals with control over use of their likeness. This is of critical importance to performers in the UK and requires further consultation with our sector and in particular, performers. We are sure that contracts will continue to be an essential remedy in that process, but clear routes of remuneration for performance use is also key. Question 15 in the consultation, which asks whether the government should have a role in collective licensing, is important here. Should contracts be the key method of protecting those rights, remuneration for the use of performance will be important. We believe that the best management of the distribution for those rights should be delivered in the same way remuneration for contract rights is already delivered. The British Equity Collecting Society (BECS) manages the collection and

distribution of the remuneration of other rights to performers. It is not clear in the consultation how it would work if the UK adopted a mechanism that allowed rights holders to ‘reserve their rights, enabling them to licence and be paid for the use of their work in AI training’, but should those rights be remunerated somehow, a collecting society such as BECS would be the obvious choice to administer those rights.

However, it is important to note that contracts do not cover all recorded performance. Auditions, self-tapes and individual produced works for showcases, are also vulnerable to AI. These are not protected by contracts, and individual performers would not have the ability to pursue AI content creation that was based on these works. Nor are contracts retrospective and may not cover new uses that were not conceived when they were signed. We therefore agree that ‘copyright law should enable creators and rights holders to exercise control over, and seek remuneration for, the use of their works for AI training’. However, the performers who use our platform are rightly concerned about whether, in a truly AI empowered environment, their moral and performer rights will be respected without specific legislative enforcement.

In the first instance, the adoption of the World Intellectual Property Office’s Beijing Treaty, which aims to improve earning conditions for actors and other audio-visual performers would help. It expands audio visual workers’ performance-related rights. It provides them with a comprehensive list of exclusive rights, including the right of making available on demand, which is essential in a digital environment and also awards audio-visual performers moral rights, which allows them to uphold their reputations in performances. These rights are independent of any economic rights, even if they have been transferred. The economic exclusive rights enable performers to authorise or prohibit certain exploitations of their performances, without agreeing to their use. We are aware that the Government consulted on the implementation of the Treaty in November 2024 and would therefore argue that when considering the rights of performers any implementation of the Treaty’s provision should be achieved alongside the work the IPO is doing on Copyright and AI. For any new UK copyright framework to work in a global digital world, we cannot look at any changes in isolation. The UK needs to consider how any legal enforcement of copyright changes around AI, alongside remuneration for performers, is enforceable on a global level.

Due to the nature of contracts for performance, the existing copyright framework for performers does not necessarily provide for ongoing economic rights for their work, although arguably the moral rights remain. We have no doubt that these works are used to train AI models without permissions or remuneration through licensing. We therefore support a partnership between the AI community and rights holders in the creative industries, but that recognition of the performer needs to be factored into this discussion. Image rights, moral rights and performers rights are outside copyright, unless and until the Beijing Treaty is adopted.

We would like to work with the Government to ensure that performers rights are not neglected in the race to secure the UK as a world leading developer of AI.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Matt Hood', with a large, stylized flourish extending to the right.

Matt Hood
Managing Director

CC: Sir Chris Bryant, MP Minister of State for Media, Tourism and the Creative Industries