

2 April 2025

Subject: AI and copyright consultation

From:
Brittany Smith
UK Policy Lead
OpenAI

Dear Chi,

Thank you for your recent letter and for the important work that your committee has done to explore AI regulation.

To:
Chi Onwurah, MP
House of Commons
Palace of
Westminster
London
SW1A 0AA

We are happy to provide you with our full response to the Government's consultation on AI and copyright. Please find this attached. Our position is based on three key principles:

- 1. The UK has a robust AI ecosystem, but global competitiveness requires treating data access as a fundamental building block for AI-driven economic growth and investment.** The UK can become a global leader in AI by adopting policies that build on its current strengths. British researchers have been instrumental in advancing the AI field, and today the UK is one of the leading countries in the world for AI adoption. However, seizing this potential will require a policy framework that recognizes the crucial role of data in developing advanced AI systems, creating new AI-driven applications to solve hard problems, and driving economic growth and investment.
- 2. A broad TDM exception is necessary to drive AI innovation and investment in the UK, and can be made to balance the needs of AI development with the mitigation of concrete harms to copyright owners.** Innovation and investments in AI infrastructure are only possible in jurisdictions where laws clearly support technological research and development. The UK must create a clear, predictable regulatory environment that sets it apart from other jurisdictions in order to boost its competitiveness. Such laws are not zero-sum: the Government can implement a broad TDM exception (Option Two) in a way that encourages innovation, addresses specific rightsholder concerns, and recognizes that AI will create new opportunities for creators' and rightsholders' creative output.
- 3. The EU regime shows the challenges of implementing opt-out systems.** In the EU, the lack of clear and scalable technical standards has created uncertainty about what opt-out methods are workable and valid, causing uncertainty for both AI companies and rightsholders. In contrast, the US approach has sustained American leadership in earlier technological waves and now AI. The UK has a rare opportunity to cement itself as the AI capital of Europe by making choices that avoid policy uncertainty, foster innovation, and drive economic growth.

We will continue to support this Committee's ongoing efforts to determine the best path forward, and will carefully consider a future invitation to participate in a public session. Our goal is to work towards a world where everyone benefits from the social, economic and technological opportunities of AI. We will continue to engage with your committee to discuss how that is best achieved.

Your letter expressed particular interest in the following two topics. You will find more detail in the attached response.

'Whether your response to the Government's consultation contained proposals to utilise technology to help deliver an entirely transparent rights environment, the importance of which was highlighted during our session'.

The Government, and this Committee, has made clear its ambition to unlock and leverage the benefits of AI in the UK. Data access will be an essential building block for AI-driven economic growth and competitiveness, which will secure the UK's place among other countries leading AI research and development.

This will require a policy framework that is practical, proportionate, and preserves legitimate competitive interests and trade secrets. By contrast, a system that requires overly broad transparency for AI developers would ultimately raise security and competition concerns related to dissemination of model developers' trade secrets, with a range of adverse impacts on investment into the UK's AI ecosystem. Our consultation response (specifically our answer to Question 22) outlines our views on transparency in more detail.

OpenAI notes that under the EU AI Act, AI providers will have to provide a level of transparency into the data that was used to train AI models. If the UK exceeds this approach, it could lead to a significant setback in achieving the Government's AI-driven growth goals.

A more balanced approach would involve aggregate, non-specific disclosures that maintain accountability while avoiding unnecessary competitive harms or administrative burdens.

'Whether your response contained proposals for "simple technical means for creators to exercise their rights, either individually or collectively" – as requested in the consultation'.

The consultation preamble sets out the ambition you describe, but it also notes that “successfully delivering it is not straightforward”. As the Government says, opt-out frameworks elsewhere in the world currently still lack clear technical standards for delivery, and this has created uncertainty about what opt-out methods are valid, leading to considerable variance in how rightsholders attempt to reserve their rights. As a result, AI developers struggle to identify what data corresponds with which works, and rightsholders’ preferences as they relate to those individual works. This is a task that becomes unmanageable at scale without machine-readable protocols.

Our consultation response (specifically our answer to Question 13) sets out work that we are engaged in to establish standards around rights reservation; we agree that there is room to improve this. However, there are a number of obstacles that this work is currently facing, and it is important to remember that standards can take years to develop.

I look forward to continued work with you and the Committee on these and related issues.

Best wishes,
Brittany Smith