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**House of Lords Communications and Digital Select Committee inquiry:
Scaling Up: AI and creative tech**

Introduction

My background is in investment in what is variously labelled 'the creative industries' and 'the creative economy' with a particular focus on investing in the audio-visual industries, especially film. I was a founder member of the Creative Industries Council in 2010, am an active member of the British Screen Forum and recently served as legislative adviser to the government of the Kyrgyz Republic (the 'Creative Park Law'). I formerly chaired the Young Vic Theatre Company and two classical music charities. I have invested regularly on my own account in media funds and early stage creative businesses.

1. What is the economic potential for improving the UK's scale-up landscape, and what are the consequences of failing to capitalise on this?

Others are better qualified to answer this question as it applies to the whole economy landscape of technology-led industry development beyond the 'creative industries', and the technology sector *per se*.

As regards what we think of as the 'creative sector', or the cultural and entertainment industries, there are deep-seated and longstanding obstacles to scaling growth which have little to do with technology. In hit-driven, project based sub-sectors like film, TV, music, games and animation, the financial risk profile of creative enterprise is such that successful entrepreneurs are often tempted to cash out via trade sales after success has been achieved with one or two 'hit' projects, rather than engage in the hard slog of building independent, sustainable, scaled businesses. This is why broad swathes of the UK's audio-visual business landscape are often characterised as akin to a 'cottage industry'.

This mentality stands in sharp contrast to entertainment business culture in the USA (especially) but also increasingly in Asia. It can be argued from this perspective that over the long term, the eclipse of genuinely world-leading companies like the Rank Organisation and EMI signifies diminished positions of UK global business leadership in, respectively, the film and music industries. In the commercial world we are still up there in publishing on most measures.

Given the universally acknowledged strengths enjoyed by the UK in *content creation* – the show, the play, the film, the game, the song – and leaving aside the special position occupied by public sector broadcasters (PSBs) and non-commercially driven arts bodies, an unresolved *route to scale conundrum* is clearly a major issue as regards economic potential, not least because in some sub-sectors we are slowly losing global competitiveness as measured by share of the relevant global market (this is true even for recorded music, otherwise one of the UK's undoubted success stories).

The “consequences” of failure referenced in the question will ultimately be measured in reduced competitive advantage and lower tax revenues unless successfully addressed. We don’t need a crystal ball: the 40% fall in investment in UK film and TV production experienced in 2023¹ serves as a clear warning of just how vulnerable we are to external shocks when so little scaled production capacity is owned domestically. It should be emphasised, however, that generalisation across the full panoply of the UK’s diffuse ‘creative industries’, with their varying business models and risk profiles, is fraught with difficulty and invariably demands heavy qualification, sub-sector by sub-sector.

2. What specific barriers do SMEs face when seeking to scale in AI, and in creative technology?

My concern here is not with AI start-ups, a subject that lies outside my area of expertise, but with current and prospective AI *users* - creative businesses which must necessarily invest in ‘creative technology’, for example virtual production techniques (in producing audio-visual content) or digital ticketing systems (in delivering venue services), in order to reduce costs, grow audiences and compete successfully.²

In the creative sector, broadly construed, most businesses (more than 90%) are not SMEs as traditionally understood (fewer than 250 employees and annual turnover below £50m): they are *micro businesses* employing only 1-4 people supported from time to time by legions of freelancers. They face considerable obstacles in dealing with AI service providers and can often only access such services via sponsored cluster networks (see below), trade bodies, specialist public sector agencies like Digital Catapult or, to a lesser extent, VC firms, of which very few invest in creative ideas or creative enterprises as distinct from what investors call ‘technology plays’. In the current market the biggest barrier is a structural mismatch of information, management capacity and negotiating power.

By contrast, the big US owned technology platforms and AI companies have their own R&D programmes and associated venture funds from which they can identify, incentivise and acquire the best commercial start-up prospects. From a UK policy point of view this is a mixed blessing: innovation is incubated in highly funded ecosystems, which is positive, but beneficial ownership is invariably at risk.

For many UK creatively led micro-enterprises AI – and specifically generative AI – currently has greater connotations of *threat* than *opportunity* reflecting the tendency of entertainment industry news-flow over the last two years. There is a ‘fear factor’ at work.

¹ Research carried out by Ben Keen for the British Screen Forum (September 2024).

² The terminology of “creative tech” and, worse, “Createch,” is imprecise and confusing for most analytical purposes, frequently muddying an invisible line between activity which is recognisably “creative” in the traditional sense, and activity pertaining to ICT (information and communications technology). “Createch” is often used by marketeers as a synonym for venture capital, which is especially unsatisfactory because very little VC money goes into ‘creative’ enterprises as generally understood. The digital effects and games industries offer the best examples of a genuine fusion of creative and technological skill. Industry classification methodology has not kept pace with these manifestations of the deepening digital shift.

The prospect of simplifying and standardising legal contracts is one of many AI-derived potential upsides for production companies, as are the elimination of costly search and identification procedures related to IP ownership.

But there is also enormous potential downside risk both to creative *content* companies (in publishing, film, TV and music) and *services* companies (for example model agencies) from the exploitation of creative technology in the form of IP appropriation (unlicensed and unremunerated) and – this is less well understood – the unilateral rewriting of commercial contracts in conditions of contract renewal.

Some of these issues were explored by the Committee in chapter two of its report *At Risk; Our Creative Future*, published in January 2023.³ They especially bear upon creative entrepreneurs: if business owners cannot depend on effective copyright protection they will have zero incentive to invest in themselves or their ideas or to attempt to build businesses based on IP they have created.

There is a government policy vacuum in this area following the failure of the Intellectual Property Office (IPO) to secure agreement between the parties (AI companies and major rights-holders) in 2023. During that IPO process, the major AI companies reportedly declined to recognise that there is a problem (of copyright infringement in training algorithms), which does not bode well for any small IP owner who might wish to negotiate a license agreement.

There are 30 significant AI copyright lawsuits before the courts currently, many or most of which will be settled out of court in the USA, leaving the great majority of UK creative content producers in the dark as to the effective future enforceability of national IP protection norms. Who in the UK creative community at the archetypal micro end of the business is going to sue Deep Mind in any jurisdiction? Lack of clarity about the commercial consequences of these IP exploitation and remuneration issues inhibits domestic investment and threatens future national competitiveness.

a. To what extent are these challenges unique to their respective sectors?

The impact of generative AI is particular to ‘creative industries’ as defined by the DCMS in 1998. There are wider IP challenges which extend to all knowledge-based industries in which a significant (and growing) proportion of economic value is measured in terms of intangible assets.

b. What role does access to finance play?

The ‘access to finance’ problem is the oldest chestnut in the brief history of the ‘creative industries’: it long predates the arrival of AI technologies. Discussion has frequently been muddled by a failure to distinguish between the financial requirements of *content* businesses (financially complex, hence the use of special purpose vehicles in funding *projects*), and *services* businesses (not that different from any other such business activity).

³ House of Lords, HL Paper 125, 2nd Report of Session 2022-23, published 17 January 2023.

The difficulty faced by most content companies is that the raw material (the IP) on which their activities are based has no value for accounting purposes until it is acquired for development, production and distribution. That applies as much to the script of *Barbie* as it does to the thousands of film and TV scripts that never get beyond a commissioner's rejection pile.

If AI were to be able to provide a solution to this challenge acceptable for valuation purposes to the accounting bodies, the banks and other financiers, that would be a big leap forward. Equally, it might conceivably promote negative sentiment on valuations.

3. How effectively are existing organisations (such as UKRI), catalyst programmes, industry schemes and other Government initiatives addressing these issues?

The 'creative industries' as defined by the DCMS account for about 6% of the UK economy. They currently receive only about 1% of government innovation funding. This is an astonishingly low number and speaks to a deeply embedded historic bias in the work of the funding bodies. Innovate UK came out of the Technology Strategy Board, which in my experience resolutely declined to invest in any research which had a cultural or 'creative' label attached to it.

The long-running saga of R&D tax credits speaks to the same underlying conceptual bias as to what constitutes 'innovation'. Creative sector lobbyists have been trying since 2008 to get the eligibility criteria for these credits broadened in line with international norms, but to no effect.

More positively, Innovate UK's Creative Catalyst programme, which provides a small number of R&D grants of up to £50K and was launched in December 2022, is very welcome. This programme is now closed for new applications but will hopefully be replicated in 2025, signifying a new direction for the agency.

Other witnesses will doubtless speak to UKRI/AHRC's £64m flagship CoSTAR programme, which is designed to enhance the UK's capability in advanced screen performance and for which development contracts were awarded last year.

a. What outcomes are being achieved?

Others are better qualified to answer this question.

b. Are any changes necessary, and how would they work in practice?

The underlying challenge for policy-makers is a conceptual one. What does it mean to 'innovate' in the 'creative industries'? Big theatrical shows like the National Theatre's hugely successful *War Horse* demand considerable expenditure on 'research' and 'development' for which little public funding is available even to regularly funded national arts companies. The even more successful (and technically revolutionary) show *Abba Voyage* was developed exclusively with (Swedish) private money, but will be hard to

replicate given the exceptional nature of the IP on which it rests (a back catalogue of globally recognisable songs).

We need to reframe the debate about what 'R&D' means for the creative sector so that 'development' is understood not only in technological terms, and to adjust funding support arrangements accordingly. We need to rethink the conceptual framework through which the equation of art + technology + commerce is supported via the public purse. AI technologies will doubtless provide some answers, but the *cui bono* question will always come into play where big tech platforms are involved unless the commercial and contractual environment is regulated to address new IP exploitation realities and deep imbalances in power relationships.

4. What further measures (financial and non-financial) are needed to address barriers to scale in AI, and creative technology?

Others are better qualified to answer this question.

5. What role do academic institutions play here, and what can be done to boost commercial links with AI and creative technology?

Under the rubric of the Industrial Strategy Challenge Fund, the May government made a major commitment to investing in creative clusters and the 'audience of the future' (immersive technology or extended reality (XR)) via university-led consortia. These awards constituted the two biggest funding commitments embodied in the 'sector deal' for the creative industries announced by the then government in March 2018 (some £80m out of £150m of aggregate public funding).⁴ Both of these programmes have been independently audited in detail, with broadly positive evaluations being delivered in each case, qualified in the case of the demonstrators developed in the second programme.⁵ Given the large sums of public money involved and the importance of these two programmes as innovative public interventions in the 'creative technology' space, it would be useful for the Committee to take evidence from their auditors.⁶

Early in the presentation of the above programmes Professor Andrew Chitty, the ISCF Challenge Fund director, characterised them thus: "not *about* industry, or *with* industry, but *for* industry." This is a key issue. Who sets the agenda? Is industry sufficiently involved in defining terms of reference and crystallising the questions to be addressed?

There is an argument for taking Professor Chitty's mantra and developing it further by embedding leading trade associations more deeply into the agenda-setting and consortium building process in any subsequent iterations of such programmes. Trade associations tend to be closer to the market than university researchers, with some honourable exceptions.

⁴ [Creative Industries Sector Deal \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁵ See Frontier Economics and BOP Consulting, *Evaluation of the Creative Industries Clusters Programme: Final Report to AHRC and UKRI*, May 2024; and Technopolis Group and BOP Consulting, *Evaluation of the ISCF Audience of the Future: Final Report*, September 2022.

⁶ BOP Consulting worked on both reports.

6. What can the UK learn from overseas?

International comparisons are never straightforward in matters relating to the 'creative industries' because different classification and data measurement systems are in use around the world. However the famous case of South Korea is especially interesting because of the scale of its public interventions in both the technology and the creative spheres, and because this intervention has been culture led by design. The scale of state ambition and genuine fusion of creative and tech agendas was apparent in the V&A's exhibition *Hallyu! The Korean Wave*, which ran at the V&A Museum in London in 2022-23. No doubt Professor Hye Keung-Lee of Kings College, London University, who gave evidence to a previous Committee enquiry on these matters, has more to say on the South Korean model.

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