AI Advisory Council Advice Paper February 2025

The Impact of AI on Ireland's Creative Sector

AI Advisory Council

The Artificial Intelligence Advisory Council is tasked with providing expert guidance, advice, and recommendations to government on emerging issues in artificial intelligence providing insights on trends, opportunities, and challenges.

While Secretariat and administrative support is provided by the AI and Digital Programmes Unit of the Department of Enterprise, Trade and Employment, the Council develops its own expert papers and advice.

The main theme of this advisory paper is that AI will have a significant impact on Ireland's creative sector. To protect creators while fostering innovation, the AI Advisory Council is of the view that it is imperative the Government considers whether Ireland's copyright laws and licensing regimes are equipped to address AI disruption. AI also offers significant opportunities for the creative sector, acting as a powerful enabler that can enhance artistic expression; and the Government should assist the creative sector in adopting this new technology. In light of the potential misuse of AI, such as widely available technology that can digitally clone the image, likeness, and/or voice of individuals, the AI Advisory Council recommends that the Government considers introducing a specific law prohibiting the creation of digital "deep fakes" of individuals without their consent. Beyond legal approaches, the Advisory Council recommends that the Government explores other policy initiatives aimed at promoting and fostering Irish and European culture in the age of AI.

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1. **Introduction**

1.1   AI technology is transforming Ireland's creative sector, offering both opportunities for growth and significant challenges for creators, developers, and policymakers. Generative AI is a type of artificial intelligence that creates new content, such as text, images, music, or code, by learning patterns from existing data and generating outputs that mimic those patterns. Unlike traditional AI, which primarily analyses data or performs predefined tasks, generative AI focuses on producing original material. This distinction lies in its ability to simulate creativity, making it particularly transformative in creative and content-driven industries.

1.2   Generative AI is projected to drive substantial economic output globally, with a CISAC-commissioned study[1] estimating €16 billion annually from AI-generated music by 2028 and €48 billion from AI-driven audiovisual outputs. However, this projected growth raises concerns about unauthorised use of copyright materials, economic displacement of traditional creators, and erosion of cultural representation. The report states that under current conditions, generative AI outputs could put 24% of music creators' revenues at risk by 2028. This

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[1] https://members.cisac.org/CisacPortal/cisacDownloadFileSearch.do?docId=47661&lang=en

represents a cumulative loss of €10 billion over the next five years and an annual loss of €4 billion in 2028.

1.3   This advisory paper, prepared by the AI Advisory Council, evaluates these critical issues, focusing on Ireland's copyright framework, legislative responses, and potential pathways to protect cultural heritage while supporting creative industries.

2.   Copyright Challenges in the AI Context

2.1   Understanding Copyright and the Reproduction Right

Copyright is a cornerstone of Ireland's creative economy, granting creators exclusive rights over their original works. Ireland's copyright protections are essential for ensuring creators are fairly compensated. However, current laws face challenges with AI systems, which rely on vast datasets in order to learn and to identify patterns, and which can be compiled of copyright material as well as publicly available data. These datasets can be used to train models capable of generating new text, images, and other media. This raises important questions about how to protect creators' copyright while enabling innovation and allowing access to vital data. Under Irish law, unauthorised copying is prohibited. However, AI disrupts these principles, particularly regarding reproduction rights, and AI's reliance on data mining introduces a grey area which must be addressed.

Permission to reproduce works is generally granted through paid licensing agreements, but these are often not in place for all the data used to train AI models. The use of such data for AI training is known as text and data mining (TDM). Irish copyright law allows TDM for commercial purposes, except where: (a) the author has explicitly reserved their rights against TDM, or (b) the rightsholder's rights are unduly prejudiced. However, the EU Copyright in the Digital Single Market Directive, which Ireland's law is based on, specifies that the rightsholder—not the author—must reserve these rights. This difference creates confusion, especially when an author has transferred their rights to a rightsholder. The Department of Enterprise is reviewing this issue to address these inconsistencies.

Ireland's copyright framework is critical for protecting creators' rights, but the rapid evolution of AI technologies has exposed gaps and ambiguities, particularly in relation to reproduction rights. The reliance of AI systems on vast datasets, often containing copyrighted materials, raises significant legal and ethical concerns, especially when proper permissions or licensing agreements are not in place. Addressing these challenges, including clarifying the reservation of rights for text and data mining, is essential to safeguarding Ireland's creative economy while enabling responsible AI development.

2.2   Protection of Computer-Generated Works

The Copyright Act provides unique protection for computer-generated works where human authorship may be absent. Under this provision, copyright is granted to the person who made the "arrangements necessary" for the creation of such works. This approach, inherited from the UK's 1988 Copyright, Designs and Patents Act, was originally created to address more mundane and archaic software issues, such as automatically generated outputs from simple programs. However, it now applies to AI-generated creations, and it is increasingly clear that this provision is not a good fit for the challenges posed by generative AI technologies, and Ireland's copyright regime has drifted further from the EU copyright acquis as a result. .

The AI Advisory Council recommends replacing this provision with a specific human authorship requirement for copyright, aligning Ireland more closely with the EU copyright acquis, which generally emphasises human creativity as the foundation of protection. In place of the current provision, the Advisory Council recommends introducing a new right specifically for AI-generated works. This would be a more targeted mechanism, designed to protect the investment and effort involved in the creation of AI-generated content rather than conflating such works with the traditional notion of creativity required for copyright. This protection could recognise the substantial resources and innovation required to produce such works, offering legal safeguards for a limited period—potentially as short as five years. A five-year term strikes a balance between recognising the investment and innovation involved in creating AI-generated works while avoiding long-term market distortions caused by prolonged exclusivity. This duration aligns with the faster pace of technological advancement in AI, ensuring that legal protections remain relevant without unduly hindering access to AI-generated content for wider societal and economic benefit.

This limited-duration protection would serve to ensure that creators and investors in AI-generated content can benefit from their efforts while preventing market distortions caused by an overabundance of free, unregulated AI outputs. It could also create new revenue streams for human creators, particularly in cases where their works are used to train AI systems or are incorporated into AI-generated outputs. Such a system would protect creators from being forced to compete against a flood of free AI-generated works while simultaneously enabling them to earn income from licensing arrangements when their intellectual property is utilised in the development of AI outputs.

The introduction of a special protection for AI-generated work would represent a significant step in modernising Irish copyright law. It would address the inadequacy of the current provision in dealing with the realities of AI-generated works and ensure a balanced approach that benefits both creators and innovators. By protecting investment rather than creativity, this framework would acknowledge the distinct nature of AI-generated outputs while ensuring a fair and sustainable market for human creations.

3. **Collective Licensing Models: Lessons from Spain and France**

3.1 Ireland's copyright framework incorporates collective licensing mechanisms is outlined in the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016, which establish standards for governance, financial management, and transparency among Collective Management Organisations (CMOs). The 2021 Copyright and Related Rights in the Digital Single Market Regulations further introduced provisions for extended collective licensing (ECL), enabling CMOs to grant licences covering both members and non-members under specific safeguards. These frameworks aim to enhance access to creative content while ensuring fair remuneration for rightsholders, with oversight provided by the Intellectual Property Office of Ireland

3.2 Spain's draft ECL Model

In November 2024, Spain published a draft legislation on ECL which aims to simplify licensing processes by enabling Collective Management Organisations (CMOs) to grant non-exclusive licences on behalf of all creators, including non-members, unless they opt out. This approach could potentially reduce administrative burdens for developers while ensuring creators receive compensation for their contributions.

3.3 France's Collective Management Regime

In France, a number of legislators in the French parliament have also proposed a similar collective management system, requiring AI developers to license copyrighted materials through CMOs. Royalties would be distributed to creators whose works are included in training datasets, providing a streamlined mechanism for compliance and compensation.

3.4 Critical Analysis of Collective Licensing Models

Both models potentially present notable advantages compared to the current system, offering greater efficiency in licensing processes, enhanced legal certainty for developers, and new monetisation opportunities for creators. By simplifying access to copyrighted materials, these models reduce administrative barriers, making it easier for developers to comply with licensing requirements. However, the use of opt-out mechanisms places the responsibility on creators to actively safeguard their rights, which can disproportionately disadvantage independent or smaller rightsholders. Additionally, concerns around transparency in royalty distribution and the operations of CMOs highlight the need for robust oversight to ensure fair outcomes.

Ireland could adapt these models, provided robust safeguards are put in place, including accessible opt-out provisions, fair representation of creators, and transparent reporting.

Oversight by the Controller of Patents, Designs and Trade Marks could enhance accountability and address representational gaps.

4. Leveraging an EU Cultural Dataset for AI Training

Notwithstanding the activities underway elsewhere on preserving Ireland's own culture, language and independence through aggregated datasets, the AI Advisory Council recommends that the Government considers an EU Cultural dataset.

4.1 Cultural Representation and Ethical AI

The composition of training datasets may impact cultural representation. AI systems that lack culturally specific data risk producing outputs that misrepresent or marginalise diverse traditions and identities. Ensuring Irish and European cultural content is included in AI training datasets is critical for preserving cultural integrity and fostering ethical AI development.

For example, when identifying notable aviation pioneers, an AI system trained primarily on American-centric data might highlight figures like Orville Wright, while one trained with French or European sources might reference Roland Garros. Such outcomes illustrate how cultural nuances can influence AI outputs where no single "right" answer exists.

It is important to bear in mind that where there is no "right" answer, cultural nuances often influence responses to human discourse. With the proliferation of AI, it may be important to avoid cultural homogeneity and retain Irish and European influences in AI systems.

4.2 The Concept of an EU Cultural Dataset

Organisations such as Mediahuis Ireland have proposed the creation of a voluntary EU cultural dataset—a collection of European creative works that creators can opt into, receiving fair compensation for participation. This dataset would harmonise access to high-quality, legally compliant training materials while promoting European cultural diversity. This initiative builds on existing principles, such as the Audiovisual Media Services Directive (AVMSD), which mandates European content quotas for video-on-demand platforms.

4.3 Benefits for Ireland and the EU

For developers, such a dataset would simplify compliance with the AI Act's transparency obligations and provide culturally relevant materials for training. For creators, it could offer visibility and fair compensation through opt-in mechanisms. Ireland has a unique opportunity to champion this initiative, promoting its cultural heritage within the global AI ecosystem.

5.   **Universal Basic Income (UBI) for Artists and AI-Affected Creators**

Ireland's UBI Pilot for Artists Ireland's UBI pilot for artists addresses economic vulnerabilities by providing financial stability, enabling creators to focus on culturally valuable work without the constant pressure of market fluctuations.

Expanding UBI to creators affected by AI disruption could support their adaptation to new economic realities. This measure would help preserve Ireland's cultural identity and ensure the sustainability of creative careers.

AI disruption could be defined as a measurable loss of income or employment opportunities directly attributable to the use of generative AI in producing creative content, including competition from AI-generated works, unauthorised use of copyrighted materials in AI training, or displacement in traditional creative roles.

6.   **Empowering Creators Through AI**

Despite the challenging impacts AI may have on the creative sector, it can also be a powerful enabler for the sector, enhancing artistic expression, democratising access to tools, and fostering innovation while preserving the unique role of human creativity.

The AI Advisory Council strongly recommends that the Government should provide financial support, such as grants or tax incentives, to help creators adopt AI tools for content creation, ensuring accessibility for all, particularly smaller creators.

Alongside this, publicly funded AI literacy and training programmes tailored to the creative sector would equip artists with the skills to effectively integrate AI into their workflows.

To foster innovation further, the government should establish innovation hubs that enable collaboration between creators and technologists, facilitating the development of cutting-edge, creator-specific AI tools.

These measures would enhance creativity, drive global competitiveness, and position Ireland as a leader in AI-driven cultural innovation.

7.   **The Role of the Controller of Intellectual Property**

The Controller of Intellectual Property in Ireland oversees the national IP system, managing the registration of patents, trademarks, designs, and copyright bodies and licensing schemes. They ensure compliance with IP laws and provide guidance to individuals and businesses on IP protection. The Controller also represents Ireland in international IP matters, including participation in treaties like the Berne Convention for copyright and the European Patent Convention.

7.1   Expanding the Controller's Remit

The Controller could oversee collective licensing frameworks, compliance monitoring, and dispute resolution for AI-related copyright issues. Aligning the Controller's remit with EU initiatives would position Ireland as a leader in AI-related IP governance.

8.   Protection Against Voice and Image Cloning

8.1   Lessons from the SAG-AFTRA 2023 Agreement

The 2023 SAG-AFTRA Agreement in the United States which arose from the 2023 Actors' Strike, which was in relation to AI technology use, introduced critical protections for performers against unauthorised use of their voice, image, and likeness in AI applications. This agreement requires explicit, written consent before any digital replication or alteration of a performer's attributes, extending these protections posthumously unless explicitly waived. Adopting similar protections in Irish legislation would ensure performers' rights are safeguarded amidst advancing AI technologies. This framework would not only protect individual autonomy but also counter malicious applications such as deepfakes.

8.2   Introducing a Personality Right in Ireland

Ireland could also consider implementing a "personality right," as seen in certain US jurisdictions and currently under discussion in the UK. Ireland could also promote the introduction of such legislation at an EU level, which may fall within the remit of the Irish EU Commissioner. This would provide robust legal protection for individuals, including public figures, against unauthorised digital cloning or imitation of their likeness, voice, or persona by AI systems. Such a measure would:

- Safeguard individuals from economic exploitation by unauthorised AI-generated imitations.

- Address privacy and reputational threats posed by deepfakes.

- Promote ethical AI development by ensuring accountability for AI-generated likenesses.

9.   Policy Recommendations

The AI Advisory Council recommends that the Government should consider the following policies:

9.1   Replacing current copyright provisions on computer-generated works with a *sui generis* right for AI-generated works to safeguard investments in innovation while preventing market saturation.

9.2   Provision of clear guidance on how rights against text and data mining can be effectively reserved under Irish copyright law, reducing uncertainty for both creators and AI developers.

9.3   The creation of collective licensing models, ensuring robust opt-out mechanisms, fair royalty distribution, and transparency for creators.

9.4   Provision of financial incentives, delivery of AI literacy programmes, and establishment of innovation hubs to enable creators to adopt and effectively use AI tools, fostering creativity, collaboration, and global competitiveness in the creative sector.

9.5   The promotion of an EU cultural dataset initiative to ensure the inclusion of Irish and European cultural works in AI training, preserving cultural diversity and ethical development.

9.6   The extension of Ireland's Universal Basic Income pilot to support creators affected by AI disruption, fostering resilience in the creative sector.

9.7   Adopting safeguards similar to the SAG-AFTRA 2023 Agreement, requiring explicit consent for digital replication or alteration of a performer's attributes and extending protections posthumously unless otherwise revoked.

9.8   Introducing a "personality right" to protect individuals from unauthorised digital imitation of their voice, image, or persona, addressing privacy and reputational risks while fostering ethical AI practices.

10.   Conclusion

10.1   AI is reshaping Ireland's creative sector, presenting both transformative opportunities and significant risks for creators and the preservation of cultural identity. To ensure a sustainable future for the creative industries, Ireland must be proactive and adapt its legal and policy frameworks to balance innovation with cultural and economic protections. Strategic reforms, including enhanced copyright protections, collective licensing models, and support for creators impacted by AI, can position Ireland competitively as a global leader in ethical and equitable AI development.

11.   Subgroup on the Impact of AI in the Creative Sector

This Advice Paper was drafted by the subgroup chaired by Dr. Barry Scannell, and comprising Prof. Deirdre Ahern, Mr. Bernard Harbor, Ms. Ronan Murphy, and Ms. Emma Redmond.

11.1   The Paper is supported by the members of the AI Advisory Council with the following exception. Dr. Abeba Birhane supports several important insights in this paper but does not endorse it in full.