

## Annex - Response form

After you have read the consultation document, please consider the questions below. There is no expectation or requirement that all questions are completed. You are welcome to only answer the questions that are relevant to you, your business or organisation.

A copy of this response form is available to download from GOV.uk.

There are two sections on this form:

A. Questions arising from this consultation

B. Information about you, your business or organisation

When you are ready to submit your response, please email this form and any other supporting documentation to [Alcallforviews@ipo.gov.uk](mailto:Alcallforviews@ipo.gov.uk).

The closing date for responses is at 23:45 on 7 January 2022.

The options for computer generated works, text and data mining and patent inventorship are summarised in the following tables.

<b>Computer generated works</b>	
Option 0	Make no legal change
Option 1	Remove protection for computer-generated works
Option 2	Replace the current protection with a new right of reduced scope/duration

<b>Text and Data Mining (TDM)</b>	
Option 0	Make no legal change
Option 1	Improve licensing environment for the purposes of TDM
Option 2	Extend the existing TDM exception to cover commercial research and databases
Option 3	Adopt a TDM exception for any use, with a rights holder opt-out
Option 4	Adopt a TDM exception for any use, which does not allow rights holders to opt out

<b>Patent Inventorship</b>	
Option 0	Make no legal change
Option 1	"Inventor" expanded to include humans responsible for an AI system which devises inventions
Option 2	Allow patent applications to identify AI as inventor
Option 3	Protect AI-devised inventions through a new type of protection

## Section A

## **Copyright – computer generated works (CGW)**

1. *Do you currently rely on the computer-generated works provision? If so, please provide details of the types of works, the value of any rights you license and how the provision benefits your business. What approach do you take in territories that do not offer copyright protection for computer-generated works?*
2. *Please rank these options in order of preference (most to least preferred) and explain why.*
3. *If we introduce a related right for computer-generated works, as per option 2, what scope and term of protection do you think it should have? Please explain how you think this scope and term is justified in terms of encouraging investment in AI-generated works and technology.*
4. *What are your views of the implications of the policy options and of AI technology for the designs system?*
5. *For each option, what are your views on the risk that AI generated works may be falsely attributed to a person?*

## **Copyright – text and data mining (TDM)**

6. *If you license works for TDM, or purchase such licences, can you provide information on the costs and benefits of these? For example, availability, price-point, whether additional services are included or available, number and types of works covered by the licence etc.*
7. *Is there a specific approach the government should adopt in relation to licensing?*
8. *Please rank the options in order of preference (most to least preferred) and explain why.*
9. *If you have experience of the EU exception with opt out for rights holders, how has this affected you?*
10. *How would any of the exception options positively or negatively affect you? Please quantify this if possible.*

## **Patents**

11. *Please rank these options in order of preference (most to least preferred) and explain why?*
12. *Would the changes proposed under Options 1, 2 and 3 have any consequential effects on the patent system, for example on other patentability criteria?*

*For options 1 and 2:*

13. *If UK patents were to protect AI-devised inventions, how should the inventor be identified, and who should be the patent owner? What effects does this have on incentivising and rewarding AI-devised inventions?*

14. *In considering the differences between options 1 and 2, how important is it that the use of AI to devise inventions is transparent in the patent system?*
15. *Would the UK adopting option 2 affect your global patent filing strategy, if so, how?*

*For option 3:*

16. *What term and scope of protection should a new right offer?*
17. *What should the criteria for grant of a new right be and why? Particularly should it:*
  - a) *Replicate the current requirements for a patent?*
  - b) *Set a different bar for inventive step?*
  - c) *Be an automatic or registered right?*

## **General**

18. *What role does the IP system play in the decision of firms to invest in AI?*
19. *Does the first mover advantage and winner-take-all effect prevail in industries adopting AI? How would this affect the impact of the policy options proposed on innovation and competition?*
20. *How does AI adoption by firms affect the economy? Does the use of AI in R&D lead to a higher productivity?*
21. *Do the proposed policy options have an impact on civil society organisations? If so, what types of impacts?*

**The consultation seems to be considering the effects of the legislation on potential publishers and users but not any other person or organisation which may be responsible for the data, for example an archive. ARA is concerned that the legal framework might have the effect of forcing archives to deny access for fear of failing their depositors, or might make administration unduly burdensome. ARA asks that the legal framework include suitable exemptions to enable archives to collect, manage and, at the appropriate time, make datasets available for research.**

**We are concerned to ensure that there is guidance on the proper documentation to be put in place to track and provide accountability (including for audit) for the AI processes undertaken and any copyright/data protection issues that arise. We note that the issues this would raise are not limited to intellectual property matters alone. Where the human is in the loop, is an important component to recognise in terms of rights and documentation for accountability purposes. The issue of the provision on a licence is potentially a simplification of what is at issue in terms of accountability.**

## **Section B: Respondent information**

**A:** Please give your name (name of individual, business or organisation).

**Archives and Records Association (UK & Ireland)**

**B:** Are you responding as an individual, business or on behalf of an organisation?

- 1) Business – please provide the name of your business
- 2) **Organisation – please provide the name of the organisation – Archives and Records Association (UK & Ireland)**
- 3) Individual – please provide your name

**C:** If you are responding on behalf of an organisation, please give a summary of who you represent.

**The Archives & Records Association is the leading professional body for the record-keeping sector. We represent all with an interest in archives, records management and conserving records. We work to provide the broadest and most coherent voice on all matters relating to the record-keeping sector and aim to broaden the care, management, access and use of records and archives by everyone.**

**D:** If you are an individual, are you?

- 1) General public
- 2) An academic
- 3) A law professional
- 4) A professional in another sector – please specify
- 5) Other – please specify

**E:** If you are responding on behalf of an organisation, are you?

- 1) An academic institution
- 2) An industry body
- 3) A licensing body
- 4) A rights holder organisation
- 5) **Any other type of organisation - please specify – Professional body**

**F:** If you are responding on behalf of a business or organisation, in which sector(s) do you operate? (choose all that apply)

- 1) Agriculture, forestry and fishing
- 2) Mining and quarrying
- 3) Manufacturing – Pharmaceutical products
- 4) Manufacturing – Computer, electronic and optical products
- 5) Manufacturing – Electrical equipment
- 6) Manufacturing – Transport equipment
- 7) Other manufacturing
- 8) Construction
- 9) Wholesale and retail trade; repair of motor vehicles and motorcycles
- 10) Transportation and storage
- 11) Information and communication – Publishing, audio-visual and broadcasting
- 12) Information and communication – Telecommunication
- 13) Information and communication – IT and other Information Services
- 14) Financial and insurance activities
- 15) Real estate activities

- 16) Scientific and technical activities
- 17) Legal activities
- 18) Administrative and support service activities
- 19) Public administration and defence
- 20) Education
- 21) Human health and social work activities
- 22) Arts, entertainment and recreation
- 23) Other activities – please specify – Information management, record keeping to support all sectors. Our members work in the public, private and third sectors managing current, semi-current and historic records including compliance conservation, licencing and access to internal and external customers.**

**G:** How many people work for your business or organisation across the UK as a whole? Please estimate if you are unsure.

- 1) Fewer than 10 people – but we represent over 2,000 members**
- 2) 10–49
- 3) 50–249
- 4) 250–999
- 5) 1,000 or more

**H:** The Intellectual Property Office may wish to contact you to discuss your response. Would you be happy to be contacted to discuss your response?

**I:** If you are happy to be contacted by the Intellectual Property Office, please provide a contact email address. [REDACTED]

**J:** Would you like an acknowledgement of receipt of your response? Yes/**No**