**Intellectual Property Office**

**Code of Practice on Copyright and Artificial Intelligence**

**Terms of Reference**

**Participation in the technical working group**

Attendees will note that participation in the technical working group constitutes acceptance of these Terms of Reference.

**Aims and objectives**

This technical working group is tasked with

* identifying any creator concerns relating to the use of copyright works, performances and databases[[1]](#footnote-2) by AI systems and users
* outlining ways in which any concerns can be addressed
* identifying any barriers to the access to copyright works, performances and databases by AI systems and users, including for the purposes of text and data mining
* outlining options to address any barriers
* setting out commitments and expectations in relation to AI firms’ use of protected material and the right holders who own protected material

These areas will form part of a voluntary code of practice. Consideration should be given to the specific recommendations made in the Pro-Innovation Regulation of Technologies Review[[2]](#footnote-3) on generative AI and the Government’s response[[3]](#footnote-4), both published on 15 March 2023, as well as existing licensing practice in the UK and other jurisdictions.

The Government’s view, as set out in its response to the Pro-Innovation Regulation of Technologies Review, recognises the need for regulatory certainty to unlock the huge potential of AI. It believes that involvement of both the AI and creative sectors in developing a code of practice will enable both sectors to grow in partnership. The Government considers that this is an issue that industry can, and should, seek to fix itself, although it does not rule out the possibility of legislative action in this area if industry does not take adequate steps to improve the situation.

**The working group’s role will include identifying, developing and codifying good practice on the use of copyright, performance and database material in relation to AI, including data mining.**

**The working group’s role will also include raising awareness about the development of good practice so that the code of practice is widely adopted across industry.**

**Composition**

The working group will include experts who are able to constructively engage in discussions and develop practical solutions. The composition of the group will be determined by the IPO in consultation with industry bodies and others, with the aim of providing balanced representation and expertise.

The IPO may appoint or remove members on a temporary or permanent basis as necessary depending upon the work programme.

**Meeting Frequency**

The group is expected to meet regularly, but the frequency is to be determined by the members.

**Chair**

The group will be chaired by the IPO.

**Publication of materials**

The IPO intends to publish some materials relating to the working group. These may include the Terms of Reference (with participant list) and the agenda for each meeting. The IPO will not publish the summary notes of these meetings, but our records relating to this work may be subject to Freedom of Information (FOI) requests. The IPO commits to consult members prior to any FOI disclosure as part of its assessment of whether it is appropriate to apply any exemptions. We commit to protecting commercially sensitive data shared by members to the greatest extent possible.

Any and all material and information, in any form, provided to the IPO for the purpose of developing the Code is provided to the Crown under a worldwide, royalty free, perpetual and non-exclusive licence. Any material provided may be copied, published and made available under the Crown copyright Open Government Licence[[4]](#footnote-5).

**Ways of Working**

To complement the Terms of Reference, the IPO propose the following ‘ground rules’ to aid productive deliberations.

*Working practices*

* It is intended that participants should work together, with outputs being reflective of a group endeavour. The Chair will look for all viewpoints to be aired and all participants to contribute.
* Discussions will be ‘Chatham House’ style, so the identity of persons making contributions and offering comments should not be revealed to others outside the meeting.
* Working group documents (and any views on them) should not be posted online or on social media in line with the ‘Chatham House’ approach.
* The IPO is responsible for answering any questions about the workings, or make-up of the group, including from other stakeholders and the media.

*Participants*

* As this is a technical working group, participants are not being asked to endorse outputs personally, or on behalf of the businesses or organisations they represent or are affiliated to.
* Participants may, with discretion, draw on the views of additional colleagues, including industry groups, to help formulate inputs to meetings, in order to advance the work of the group as a whole.
* Participants may suggest to the Chair/IPO Secretariat further subject matter experts to be invited to contribute to the work of the group.
* Working group participants should not send a substitute to meetings if they cannot attend. New attendees may be invited at the discretion of the Chair.
* Participants wishing to withdraw from the group at any point should advise the Chair in the first instance.
* Participants are solely responsible for ensuring they comply with competition laws at all times and in particular for ensuring that they are not sharing commercially sensitive information in a manner that might breach competition law.

*Meeting administration*

* The IPO Secretariat will set out a forward look of proposed meeting dates. Participants are encouraged to attend as many meetings as possible. No quorum will apply to the number of persons that need to be in attendance for the group to meet.
* IPO Officials will both facilitate and participate. Officials from elsewhere in Government can be invited to attend by the Chair.
* Where meetings take place virtually or are hybrid, proceedings will not be recorded.
* A short summary note of the discussion and actions from each meeting will be circulated to all members of the group.

**May 2023**

1. In the title of the group, and in working group documents, “copyright” may be used as a shorthand for copyright, rights in performances, and database right. Copyright includes both economic and moral rights. [↑](#footnote-ref-2)
2. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1142883/Pro-innovation_Regulation_of_Technologies_Review_-_Digital_Technologies_report.pdf> [↑](#footnote-ref-3)
3. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1142798/HMG_response_to_SPV_Digital_Tech_final.pdf> [↑](#footnote-ref-4)
4. Current OGL version 3.0 available at <https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> [↑](#footnote-ref-5)