Protecting human creativity in AI-generated music through effective licensing

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Key takeaways

1. Human-created content like music, text, images, and video forms the backbone of generative AI systems. However, the resulting AI-generated works compete directly with original creations. This dynamic presents both new opportunities and challenges for creative industries, particularly in the music sector.

2. A fair, ethical, and sustainable market for generative AI depends on a strong legal framework that supports human creators and effectively protects their intellectual property rights.

3. To align the interests of AI service providers and music creators, a new licensing framework is essential, ensuring both equitable access and protection for original creators.

4. The proposed dual-licensing model detailed in this briefing includes two key elements: (1) licensing requirements for commercially exploited AI-generated content, akin to licensing human-produced songs, and (2) licensing AI services that train on copyright-protected material.

5. An AI royalty fund, managed by a dedicated trust, should be established to address specific sector needs. This fund would prioritise support for creators from heavily impacted genres and those producing high-quality work, especially those disadvantaged in the algorithm-centric market.

1. Introduction

The rapid evolution of technology has reshaped the music industry, transitioning from physical media to digital streaming platforms. The music industry employs over 216,000 people and generates a turnover of more than £7.6 billion (GVA) per year (UK Music, 2024). The development of generative AI and its application to music creates new opportunities but also brings new challenges and harms.

Human-created music, text, images, and videos serve as the foundational material for generative AI systems. However, the content produced by AI using these resources directly competes with original human-made works. This dual impact raises the stakes for creative professionals, who face challenges both in terms of the material fed into AI and the content AI produces. Unlike past innovations, which streamlined the production and distribution of human-made content, AI autonomously generates new works by learning from vast collections of existing material.

While the copyright framework is designed to grant protection exclusively to human-created works, the advent of AI technology raises the question of whether copyright should extend to AI-generated creations. Additionally, the training of AI systems often relies on the use of copyright-protected materials. However, given that copyright law permits certain forms of text and data mining and that training processes may not constitute "copying" in the legal sense, there remains ambiguity about whether explicit authorisation is required for such activities. This shift raises questions about the capacity of copyright to adapt, as well

as the need to protect the value of human creativity in the industry. Without appropriate regulatory measures, this dynamic could quickly threaten the financial stability of the music industry. Building a fair, ethical, and sustainable market for generative AI requires a robust legal framework that both empowers human creators and safeguards their intellectual property rights.

This policy brief summarises the work to date to develop a new licensing model for AI services and AI-generated content to balance the interests of AI services and music makers for the UK.

2. Context

Since the release of ChatGPT in November 2022, generative AI has triggered a transformative surge across industries, including music, leading to substantial investments and a fast-paced AI expansion. As of this year, the value of AI in the UK has exceeded a hundred ninety billion British pounds, now representing 22% of the country's tech sector value, a significant increase from 12% in 2019. Since 2014, the government has invested over £2.3 billion in various AI initiatives across multiple sectors.

This surge is particularly impactful for the music sector, where AI applications are revolutionising everything from music creation and production to distribution and marketing. With the market for AI-powered music technology expected to grow at an average annual rate of 60%, reaching over £2.4 billion by 2028, the shift toward AI-generated music could soon represent a substantial portion of global music revenue.

Generative AI's swift advancement, however, poses an existential threat to traditional revenue streams, particularly for music creators who depend on copyright income. A European study carried out by Goldmedia estimated that almost 27% of music creators' revenues could be compromised by 2028 due to the proliferation of AI music, leading to a potential cumulative revenue loss of approximately €2.7 billion from 2023 to 2028. The issue is further complicated by the reliance of AI models on copyright-protected works for training, creating tension around the unauthorised use of such content. While these models are trained on vast datasets of human-created music, creators are currently not compensated for the data utilised in AI training. As a result, creators feel increasingly sidelined, as the growth prospects and financial benefits remain largely in the hands of tech companies rather than creatives.

At the heart of this tension is the question of copyright's adaptability to the new digital landscape and whether generative AI can coexist with traditional music creation while respecting intellectual property rights. Creators are calling for transparency, credit, consent, and remuneration when their work is used to train AI systems. Meanwhile, the push for a robust framework that addresses both output and input licensing remains vital to bridge the financial gap for creators. As a growing number of companies, including major tech players, invest in developing foundational models for AI music, the demand for an equitable remuneration model intensifies. This debate underscores the urgency of a regulatory approach that acknowledges the foundational role of human-created content while enabling sustainable innovation within the music industry.

The briefing is informed by a comprehensive review of existing literature, analysis of technological disruptions (including the difficulties in attributing the contribution to an AI from a human creator, who makes the creative decisions and what amounts to sufficient

contribution to be eligible), and insights drawn from discussions with stakeholders in the AI and music industries. Key sources include analyses of past remuneration frameworks, such as the 'Record-Royalty Fund', which provide historical context for managing technological disruption in creative fields. The briefing also draws on theoretical perspectives from intellectual property law, particularly as they relate to balancing the rights of creators and users in the digital age.

Additionally, the research builds on comparative international practices and legal frameworks, including the European Social Charter and other international human rights instruments, to propose equitable solutions for AI-driven challenges in the music industry. By blending historical analysis, expert opinion, and socio-legal principles, this research aims to address the economic, cultural, and social implications of generative AI for the music industries. It also proposes a solution to avoid difficulties in terms of attributing contributions between AI and human creators, determining creative decision-making responsibilities, and establishing what constitutes sufficient contribution for eligibility in revenue frameworks.

3. Options and evidence

We identify three primary options for addressing the impact of generative AI on the music industry and protecting creators' rights.

1. **Tax-Based Model**: A tax model could redistribute revenue generated by AI to support creators who may be financially affected by AI-driven automation. Drawing on existing digital service tax frameworks in Europe, such as the UK's 2% Digital Services Tax and France's recent tax on streaming services, a similar approach could apply to AI. However, there are challenges, such as the risk of passing costs to consumers, opposition from affected industries who find such tax discriminatory, and difficulties in adapting this system across regions with varied infrastructure. Furthermore, the UK's status as a cultural exporter raises questions about whether a tax aligns with the nation's broader cultural goals.

2. **Levy-Based Model**: A levy approach would require AI providers to contribute a portion of advertising or subscription revenue, directing these funds to creators whose works could be substituted by AI-generated outputs. This model aligns with the EU's framework for compensation in private copying cases, bypassing the challenge of proving substitution risk and simplifying revenue collection. The proposal enjoys support from initiatives like the UK's Smart Fund for private copying, which advocates for device-based levies to support local creators. However, limitations in rights societies' representation, potential conflicts of interest, and issues in managing complex metadata raise concerns about its equitable implementation and reach across the entire music industry.

3. **Licensing and AI Royalty Fund**: A dedicated AI-royalty fund offers an alternative to a direct tax or levy, focusing on equitable support for creators within an AI-driven environment. This fund could be managed by a collective of music industry organisations and would prioritise support for underrepresented and economically impacted creators. The fund aims to protect and promote human creativity, addressing economic disruptions from AI use while fostering socio-cultural

goals such as diversity of genres, voices and inclusivity. However, ensuring the inclusion of all affected creators, and transparent management, would remain a challenge. The fund addresses the challenge AI poses to copyright by securing remuneration for content used in AI training. International principles emphasise balancing rights with broader societal benefits, supporting the idea that AI's use of copyright-protected materials should not undermine the interests of creators. A royalty fund ensures a predictable revenue stream for artists, fostering innovation and protecting the cultural value of human creativity in a rapidly automating landscape.

4. Policy Recommendation: A new dual licensing structure

Our proposal builds on the three options explored in the previous section by introducing a dual licencing approach for AI-generated music to ensure compliance with copyright law and fair compensation for creatives. Firstly, a traditional license would apply to AI-generated outputs, providing users who want to reuse or monetise AI-generated music with legal certainty, while fairly compensating right-holders with a share of the income generated by AI music use—similar to current practices for cover versions.

Additionally, a new license would govern the use of copyright-protected material for AI system training. While training AI on copyright-protected works is widely accepted, it raises complexities tied to text-and-data mining exceptions, especially as they expand to commercial applications. Establishing a remuneration model for the training stage involves navigating legal and operational challenges related to data management, processing, payment distribution, and

rights clearance for the large volume of works involved. Therefore, under this model, right-holders would agree to the use of their works for AI training if revenue were generated. Licensing fees would constitute a share from the AI services' income, based on prompts and outputs created within the UK using IP addresses or share from subscription fees from UK-based subscribers for example. This model would recognise the artistic contribution of music makers beyond the data itself.

This model also tackles the logistical challenges of implementing an input levy while elevating the voices of music creators. An AI royalty fund would be managed by a collaborative body, such as the Council of Music Makers — which includes The Ivors Academy, The Featured Artists Coalition, The Music Managers Forum, The Music Producers Guild, and The Musicians' Union —along with The Independent Society of Musicians. This group would establish a trust to administer the fund, addressing sector-specific needs, supporting underrepresented genres, and providing direct grants to creators who produce high-quality content but lack resources to thrive in an algorithm-driven market. This approach would not only protect jobs but also introduce support measures for more vulnerable creators in the music industry.

The rapid transformation of the music industry highlights how copyright law's principles, though tech-neutral, must evolve to protect human creators in this AI-driven era. Traditionally, copyright law rewards artistic expression by establishing exclusive rights for creators, yet AI challenges this by turning creative works into training data, producing outputs that resemble human creativity without direct human input. This paradigm shift redefines authorship and diminishes music's value to mere data, overshadowing the emotional and cultural

value tied to human creation. This new licensing model with the introduction of an AI-royalty fund could offer a practical solution to support diverse artistic contributions, particularly in genres and communities most affected by AI content substitution. As digital platforms and AI-based intermediaries gain prominence, the fund would ensure that music's value remains rooted in human creativity, rather than solely algorithmic output.

Finally, an AI royalty fund aligns with international social rights frameworks like the European Social Charter (ESC), which emphasises fair remuneration and cultural diversity. ESC standards recognise the social, cultural, and economic roles of music and the rights of workers to earn a living, which AI threatens to disrupt. Although member states have varied levels of commitment to ESC provisions, ESC values can guide equitable compensation and skills development for creators, promoting economic resilience in the face of AI disruption. By aligning AI use in creative industries with ESC and human rights, an AI royalty fund would protect the cultural value of human expression, fostering a sustainable and inclusive future for the music industry.

5. Implications

The proposed licensing model for generative AI represents a significant shift for the UK music industry, seeking to establish a fair and sustainable approach that balances the interests of AI developers and music creators. This model could also become relevant for other territories. Key implications include:

Enhanced Copyright Protection for Music Creators
By instituting a licensing system for AI-generated outputs, the model ensures that creators are compensated when their works inform AI-generated music. This measure offers copyright protection that

aligns with traditional music rights, giving creators confidence that their contributions are recognised and rewarded in a digital environment. This could promote greater collaboration and minimise legal uncertainty, encouraging innovation while preserving intellectual property.

New Revenue Streams for Right-Holders
The dual-license structure would provide right-holders with compensation at two levels: firstly, for the AI-generated outputs that utilise their content, and secondly, for the training of AI systems on copyright-protected material. This creates a new revenue stream for music makers, potentially alleviating financial pressures exacerbated by AI's impact on traditional music consumption and providing a way to adapt to the evolving digital landscape.

Addressing the Text-and-Data Mining (TDM) Exception Complexity
The model proposes compensating creatives during the training phase of AI systems, even as TDM exceptions are broadened. The introduction of a revenue-sharing scheme for TDM activities acknowledges the complexities of using copyright-protected material for AI training while ensuring fair compensation.

Equitable Allocation through an AI Royalty Fund
The establishment of an AI royalty fund, managed by a representative body like the Council of Music Makers alongside The Independent Society of Musicians, could address industry-specific needs, with a particular focus on underrepresented genres and independent creators. This fund could issue grants to grassroots artists and provide targeted support for economically vulnerable categories of music makers, helping to counterbalance the competitive disadvantages they face in a digital, algorithm-driven market.

Support for Innovation While Preserving Economic Stability

By introducing a licensing model that provides fair remuneration to creators while allowing AI systems to operate within a legal framework, the model encourages both innovation and economic sustainability. The structure could foster greater industry confidence, allowing music creators to coexist with generative AI technologies rather than viewing them as purely disruptive forces.

The proposed AI royalty fund model would complement existing industry initiatives by ensuring that both live performances (through the Grassroots Music Venue Trust) and music makers are supported. It would facilitate the training of AI systems on quality materials, enhance the representation of music makers in these policy debates, and reaffirm the value of music as an artistic expression.

Potential as a Blueprint for Global AI Licensing Standards

As generative AI impacts creative industries worldwide, this UK-based licensing framework could serve as a model for international approaches, encouraging collaboration across borders. By addressing complex issues such as revenue sharing and data rights, the proposed model provides a potentially replicable solution for other creative sectors grappling with similar challenges.

Overall, this model positions the UK to pioneer a balanced approach to AI in the creative industries, promoting a regulatory framework that values human creativity while adapting to technological advancements. It seeks to empower creators, reduce conflicts, and support a thriving creative economy amid AI's transformative impact on the music industry.

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