BRIEFING

AI and Copyright: Impact Assessment Approach

Background

The UK Government consulted in December 2024 on a "plan to deliver a copyright and AI framework that rewards human creativity, incentivises innovation and provides the legal certainty required for long-term growth in both sectors." This set out a range of options including protections for text and data mining (TDM).[1]

In the Data (Use and Access) Act 2025 the Government committed to "prepare and publish an assessment of the economic impact in the United Kingdom of each of the four policy options described in section B.4 of the Copyright and AI Consultation Paper" including "copyright owners" and "persons who develop or use AI systems." This in turn should include the "impact on copyright owners, developers and users who are individuals, micro businesses, small businesses or medium-sized businesses."[2]

This briefing explores some of the key choices that the Government will need to make in assessing the impact of measures in this area.

Types of impact

There are a wide range of more-or-less direct impacts that might result from changes to the copyright framework with respect to text and data mining generally and AI specifically. Any impact assessment will need to explain which of these it considers and which it seeks to quantify. Impacts could include, depending on the policy scenario, changes in:

- **AI training activity** - the more training uses publicly available information, the more likely it is to be affected by a TDM exception.
- **Other TDM activity** - other kinds of text and data mining (in life sciences, healthcare, financial services, etc.) could also be supported by a commercial TDM exception. This will include non-commercial research, as many non-commercial and science and research organisations are partnering with commercial entities given the diverse capabilities needed for important projects.
- **Adjacent activity** - a wide range of AI development either (a) can be conducted with greater legal confidence in a jurisdiction with a TDM exception (e.g. AI adoption); or (b) makes sense to colocate with AI training (e.g. fine-tuning).
- **Licensing** - where AI training is occurring and some valuable data is not otherwise accessible, it might be licensed, creating income for rights holders, albeit at a potentially prohibitive cost to developers.
- **Spillovers** - investment in AI development will generate a wide range of tangible and intangible assets useful to other organisations developing or using AI services.

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1 https://www.gov.uk/government/consultations/copyright-and-artificial-intelligence/copyright-and-artificial-intelligence

2 https://www.legislation.gov.uk/ukpga/2025/18/contents

This might in part reflect an impact on the efficacy of other government policies intended to support the growth of the AI sector in the UK, such as AI Growth Zones.

- **Impacts on model quality** - UK policy could affect the overall quality of AI models, which would have costs for consumers (affecting their welfare) and for business users (affecting their productivity).
- **Impacts on model availability** - more likely than affecting the overall pace of AI development, UK policy could affect whether the most sophisticated models are deployed in the UK. This could have a particularly pronounced impact on business users across the economy, competing with rivals that have access to better tools.[3]
- **Impact on model customisation to UK needs** - if models continue to be developed and deployed, but training or customisation in the UK is more challenging, then AI tools might respond less effectively to distinctive UK needs. This could include the general UK environment (e.g. robotics trained on UK data might navigate UK environments more effectively) or the specific needs of UK organisations (e.g. public sector organisations).
- **Impacts on competition** - increasing the fixed cost of developing models, or increasing costs per jurisdiction as developers need to satisfy different regulatory requirements, will undermine the dynamism that currently characterises the AI sector.[4]

These impacts could in principle be quantified based on upstream indicators, such as investment, or economic outcomes such as GDP or consumer welfare.

Scenarios

It is vital that any economic impact assessment adopts a consistent "apples to apples" scenario. Costs and benefits should be assessed on a common understanding of the policy change in question and its implications.

If policymakers introduce a text and data mining exception of the sort seen in other major economies, it will affect whether models are trained in the UK (with wider consequences for activities adjacent to AI development). It will affect whether or not AI tools are deployed in the UK less. In turn, that means any impacts (good or bad) of AI as a technology are less relevant to the options the Government is considering. It also means that a TDM exception is not likely to have a significant effect on the scope of licensing (as models will instead be trained in other major economies where such requirements do not exist).

This might not be the case for all potential policies. Proposals in the House of Lords, for example, would have inhibited the deployment of AI in the UK by requiring companies doing so to show that they had met the requirements of UK copyright law (while also making it much more challenging, in many cases impossible, to do so). While this might address some concerns rights holders have about the development of AI, it also expands the scope of the relevant benefits to all of the benefits of AI being deployed in the UK and raises other less-tangible harms (e.g. the impact on global copyright norms). The potential

[3] https://ccianet.org/research/reports/tools-to-compete/

[4] https://www.rbbecon.com/news/article/navigating-the-competitive-dynamics-of-generative-ai-in-europe/

losses from implementing these sorts of constraints in AI development and availability (including in the creative industries) are much broader.

Even the impact on licensing of content in such a scenario is ambiguous. While licensing, absent a strong TDM exception, might be necessary to create AI tools that can legally be used in the UK market, it is not clear that it would be practical and economical to do so on a significant scale that would make up for the loss of opportunities to licence data that is not publicly-available in a more dynamic, globally-connected AI market. Incentives for licensing go beyond access to data. In the vast majority of cases, licensing agreements between rights holders and AI developers focus on creating value to the user at the output-stage. The existence of a TDM exemption should not impact this incentive, i.e. licensing will still occur with a TDM exemption.

It is not credible for the UK to decide the global path of AI development given the strong commitment of major economies (e.g. the U.S.) to AI leadership and well-established legal principles (i.e. fair use) protecting AI training. Some of the wider concerns raised about increasingly sophisticated AI systems would only be relevant if the UK could decide the path of global AI development. Even if it were possible for the UK to do so, inhibiting AI development would have large costs to the wider economy (in the UK and globally) in the form of reduced consumer welfare and business productivity.

	AI developers	**Copyright owners**	**Economy-wide (including creative industries)**
A: Impact on UK AI development, e.g. introducing a TDM exception	• Increase in AI training activity • Increase in other TDM activity • Increase in adjacent activity • Increase in competition	• No obvious impacts based on *where* AI development takes place	• Increase in spillovers • Improvement in model customisation to UK needs
B: Impact on UK AI development and deployment, e.g. extra-territorial imposition of UK copyright	• Reduction in AI training activity • Reduction in other TDM activity • Reduction in adjacent activity • Reduction in competition	• Ambiguous impact on licensing	• Reduction in model deployment • Reduction in model customisation to UK needs
C: Impact on global AI development	• Reduction in AI training activity	• Ambiguous impact on licensing	• Reduction in model deployment

	• Reduction in other TDM activity • Reduction in adjacent activity • Reduction in competition		• Reduction in model customisation to UK needs • Reduction in model quality

There is also naturally a "status quo" option. The impacts of this are likely to be the inverse of the most likely alternative, e.g. introducing a TDM exception. Compared to that counterfactual a reduction in: AI training; other TDM activity; and adjacent activity. Plus a loss of spillovers and customisation for UK needs.

Existing analysis

Existing analysis, which could help inform an analysis of the economic impact of a TDM exception, includes:

- Europe Economics analysis of the investment impact of a TDM exception commissioned by CCIA[5]
- Centre for British Progress analysis of the impacts of an AI licensing regime[6]
- J.L. Partners survey of the AI ecosystem commissioned by CCIA[7]
- Centre for British Progress estimate of the impact of a UK TDM exception on UK GDP[8]
- Data Catalyst Institute analysis of the economic importance of fair use for the development of generative artificial intelligence commissioned by CCIA in the US[9]

[5] https://ccianet.org/research/reports/estimating-impact-on-investment-of-commercial-tdm-exception/
[6] https://britishprogress.org/reports/who-actually-benefits-from-an-ai-licensing-regime
[7] https://ccianet.org/news/2025/05/uk-ai-ecosystem-poll-shows-the-importance-of-copyright-and-ai-regulation-for-the-governments-objectives-of-promoting-uk-innovation-and-economic-growth/
[8] https://britishprogress.org/briefings/copyright-ai-the-case-for-a-pro-growth-approach
[9] https://ccianet.org/research/case-studies/economic-importance-of-fair-use-for-development-of-generative-artificial-intelligence/