



**ANTI COPYING IN DESIGN (ACID) RESPONSE TO THE COPYRIGHT AND AI CONSULTATION, FEBRUARY 2025**

**CASE STUDY**

We asked ChatGPT to create an 'edgy' image in the style of Banksy to express ours and many millions of copyright creator's views that "Opt Out" is not an option without an effective, accessible and reliable mechanism to do this, together with robust safeguards as well as transparency within the AI sector and for IP creators who do opt in to be remunerated for the use of their works.

This says it all!



## EXECUTIVE SUMMARY AND RECOMMENDATIONS

- There is a plethora of ways in which AI can be positively harnessed and used by all.
- This is a once in a lifetime moment for both the Creative Industries (CI) and other copyright creators and Big Tech to work together to provide growth solutions for the good of humankind and, in particular, Sustainable Development Growth (SDGs) in the UK.
- Common ground for fair recompense, attribution, ethics, compliance, and respect must be the core principles for all players.
- The UK government must not seek to change current UK copyright law without adequate opt out provisions with IP safety which require AI *large language models* (LLMs) to “opt in”
- The introduction of an effective licensing model to recompense copyright creators.
- The above should be a minimum basis to foster trust and transparency which currently does not appear to be a priority for Generated Artificial Intelligence GAI and LLMs.
- **One cannot succeed at the expense of the other.**

## ADDITIONAL CASE STUDIES

- a) **AI and a Case Study** the UK greetings card sector is vibrant and worth around £1.4 billion a year. In a digital world how special is it to receive a card by post? Greetings cards artists and designers rely on copyright. We have some of the most talented greetings card creators in the UK who thrive on originality, difference, and cultural diversity.

We asked an AI model to create a new greetings card in the style of one and the humour of another. Within 20 seconds a “new” card had been produced. Re-sellers on online marketplaces often use this method to create lookalikes which they will sell at a fraction of the price of the originator. Lola Design estimates they have lost £100,000 in sales since the advent of LLMs and AI.



*Not only do both businesses have a unique talent, but they have also spent years honing their artistic skills. Combining Image data does not have independent talent.*

- *How can these two companies possibly “police” unauthorised use of their copyright works when lookalikes spring up like ‘whack a mole’?*
- *How do they protect the copyright in their work from theft?*
- *How can they be rewarded by GAI business for the unauthorised use of their copyright in training and executing content creation?*
- *How do they keep the incentive for original creation when they know that immediately they release new designs, their market share will be eroded by AI produced cheap replicas?*

- b) **AI and a Case Study** – the UK fashion sector is said to be worth £21billion and employs 500,000 people. British fashion designers are world leading. We asked ChatGPT to create a new dress design in the style of contemporary and cutting-edge British designer Sir Paul Smith with his unique striped theme signature but in the classic style of Chanel. The image is what was produced in 14 seconds. His eponymous fashion company was founded in 1970 and has expanded into over 70 countries. Chanel French luxury fashion house founded in 1910 by Coco Chanel in Paris.



*Paul Smith and Chanel both have copyright in their design drawings, copyright and design rights in their creations, as well as recognisable trade marks/brand names. Any unauthorised use of their copyright and other intellectual property rights has a direct impact on the decades they have spent creating these unique styles and consequences for the future of their brands.*

- c) **AI and a case study** - We asked ChatGPT to create a new vacuum cleaner which combined Dyson's distinctive design style with its competitive rival Dux and here is the result within 12 seconds.



*Whilst both rely heavily on patents, copyright exists in their plans, drawings, images, and technical specifications. Rivalry between both takes on a new perspective. Is this fair*

*competition or does it dilute each brand who have invested many years in developing and refining their designs? Or both?*

## **ABOUT ACID**

ACID is a not-for-profit membership organisation committed to promoting and protecting intellectual property (IP) rights for designers and creators in the UK. Established over 25 years ago, ACID has become a leading voice for design protection, representing a community of designers, makers, and manufacturers across a wide range of industries including the CI.

Our mission is to foster a culture of respect for IP, where original design is valued, and creators have the tools and knowledge to safeguard their work. Through education, guidance, and advocacy, we empower designers to understand their rights and take proactive steps to protect their creations.

ACID collaborates closely with policymakers, government bodies, and stakeholders to ensure that the voice of the design sector is heard, particularly in matters related to IP law and enforcement. We also provide practical resources, including access to an IP Design Databank, which serves as a deterrent to copying and supports legal protection for members.

By championing fair competition and innovation, ACID continues to lead the fight against design infringement, enabling creative businesses to thrive in a fair and supportive environment to achieve growth.

ACID represents many members in design-related sectors that rely on copyright to protect their work. In addition to graphic design, greeting cards, product design, artists, and surface decoration, there are other members in different design sectors that extensively rely on copyright:

- **Illustration & Digital Art** – Copyright covers artwork for books, ads, and media.
- **Textile & Fashion Design** – Fabric patterns and textile designs are protected.
- **Advertising & Branding** – Logos and branding materials are protected.
- **Packaging Design** – Graphics and labels have copyright or trade mark protection.
- **Photography** – Original photos are automatically protected by copyright.
- **Architecture & Interior Design** – Decorative elements and unique drawings are covered.
- **Game & Web Design** – UI/UX, characters, and animations are protected.
- **Calligraphy & Typography** – Custom fonts and lettering hold copyright.
- **Jewellery, Tattoos** - unique designs hold copyright
- **Furniture & Lighting** – design drawings are protected by copyright.

## **INTRODUCTORY COMMENTS FROM ACID**

ACID welcomes the opportunity to respond to the Copyright and AI consultation published on 17 December 2024. However, we find it concerning that on 13 January 2025, the government launched a major AI Opportunities Action Plan (AI OA Plan) which includes recommendations to change copyright law and allow AI developers to use copyright materials for training purposes, with no accessible nor practical system in place for copyright creators to “opt out”.

The AI OA Plan’s ambition is for the “*UK to be an AI Maker, not an AI taker*” but it seems acceptable for AI to be a “taker” of copyright without permission under current law and at odds with government’s stated position on copyright, which is as follows:

***The Intellectual Property Office “How copyright protects your work - Copyright prevents people from:***

- *copying your work*
- *distributing copies of it, whether free of charge or for sale*
- *renting or lending copies of your work*
- *performing, showing, or playing your work in public*

- *making an adaptation of your work*
- *putting it on the internet”*

The proposal to adapt the law to allow the use of copyright for training purposes without safeguards, accountability, and loss of creators’ ability to monetise their work for AI use has caused consternation and outrage from the CI, MPs, Peers, and other stakeholders.

In a House of Commons 5-hour debate on 27th January, MPs from the breadth of the country espoused the successes of different sectors of the CI and the human centric endeavours of millions to make our CI the envy of the world. They were united that any dilution of copyright law as enshrined in the Copyright, Designs and Patents Act, 1988 (CDPA), would have a negative impact on current protection.

In the House of Lords on 25<sup>th</sup> January 2025 in the first reading of the Data (Use and Access) Bill, following much debate an [amendment was tabled \(44\)](#) with Baroness Kidron forcing a vote to test the original clause.

We fully support the ambitions of the AI OA Plan to ramp up AI adoption across the UK to boost economic growth, provide jobs for the future and improve people’s everyday lives. Along with many others, ACID believe that this may well be the most important technology of our time. However, it cannot be at the expense of the UK’s CI, a recognised and tangible economic, cultural and social UK and global asset, as well as a significant and consistent growth area employing between two and three million people and worth approximately £130 billion to the UK’s GVA. The CI are a complex sector with many sub-sectors and are based on individual and human centric creativity, skill, and talent. Furthermore, it is not just copyright which the proposals threaten to undermine. Designers frequently rely on multiple intellectual property rights in protecting their creations. A single product design can be protected by both copyright and unregistered design rights, for example. The use of copyright works by AI developers and providers undermines other intellectual property protections such as design rights and trade marks relied upon by the CI, as illustrated by the above case studies.

**The options the government’s Copyright and AI Consultation is consulting on in the context of copyright and AI are:**

**Option 0: Do nothing: Copyright and related laws remain as they are.**

**Option 1: Strengthen copyright requiring licensing in all cases**

**Option 2: A broad data mining exception**

**Option 3: A data mining exception which allows rights holders to reserve their rights, underpinned by supporting measures on transparency**

**Currently under existing copyright law**, it is necessary for anyone using copyright works, which includes AI developers, to secure consent for content use. Ensuring this is critical to protecting creators’ rights, enabling licensing income, and maintaining incentives to continue to create. However, under the CDPA, there are exceptions for the following: Non-commercial research and private study, text and data mining for non-commercial research, criticism, review and reporting current events, teaching, helping disabled people, time-shifting, parody, caricature and pastiche, together with appropriate acknowledgement of the copyright creator, fair dealing and technical protection measures.

**Copyright is a property right** that gives legal protection to the author of an original work. It’s a type of IP that controls who can copy or adapt a work. We do not share the view that unauthorised content ingestion by generative AI outputs is acceptable without robust safeguards, regulation, and payment for its use.

**ACID is a member of the Alliance for IP and whilst endorsing their submission and answers to the 47 questions, we would like to make additional comments, as follows:**

**ADDITIONAL COMMENTS**

**AI - Bletchley AI Summit 2023** - Matt Clifford CBE., spearheaded the Bletchley Summit which global leaders and key influencers attended.

**A recommendation was agreed that** *“AI should be designed, developed, deployed, and used, in a manner that is safe, in such a way as to be human-centric, trustworthy, and responsible and the recognition that the protection of human rights, transparency and explainability, fairness, accountability, regulation, safety, appropriate human oversight, ethics, bias mitigation, privacy, and data protection needs to be addressed. We also note the potential for unforeseen risks stemming from the capability to manipulate content or generate deceptive content. All of these issues are critically important, and we affirm the necessity and urgency of addressing them.”*

Matt Clifford OBE also spearheaded the AI OA Plan, its recommendations do not appear to reflect many of the agreed principals of Bletchley recommendations.

### **AI – Human Rights Considerations - Designs and Copyright are Property Rights.**

All IP rights are by definition considered as property.

Unregistered and registered designs are specifically expressed to be property rights. Unregistered design right is specifically described as a property right in Section 213 (1) of the CDPA and likewise registered designs are expressed to be personal property in Section 15A of the Registered Designs Act 1949 (as amended).

Copyright is expressed to be so in Section 1(1) of the CDPA.

The UK is also a member state of the European Convention on Human Rights (ECHR) and following the General Election of 1997 implemented the convention requirements into domestic law through the Human Rights Act 1998 (HRA).

Section 1(b) of the HRA mirrors Article 1 Protocol 1 of the ECHR and this states as follows:

*“every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”*

Case law has expanded on the meaning of this provision and in short provides for a single right which is restricted by considerations of public interest and the interests of the State.

The intention of Article 1 of Protocol No.1 is to bind the State to balance the interests of the wider community against those of the individual. The State is expected to consider a number of factors when assessing whether an act is within the public interest. This includes the assessment of the legitimacy of an aim and whether what the State is trying to achieve is serving an economic or social goal. The State should also assess the proportionality of an act and whether adequate compensation can be offered to offset the deprivation of an individual's personal property.

In ACID's view current plans to include an opt out for IP rights owners in the face of training by AI platforms is neither proportionate nor in the public interest. At the end of the day the question needs to be asked *“who is this public and what interest do they have?* Should the interest of primarily US based massive computer companies prevail over the interests of tens of thousands of UK based designers whose primary income derives from being able to protect their designs.

Should Parliament pass legislation that doesn't properly balance the peaceful enjoyment of property rights with the public interest then there could well be a challenge in the courts from and on behalf of all IP property owners under section 19 of the HRA:

*“A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill—*

*(a) make a statement to the effect that in his view the provisions of the Bill are compatible with the Convention rights (“a statement of compatibility”); or*

*(b) make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill.”*

Accordingly ACID and Designers generally will be carefully monitoring legislative developments and will not hesitate to challenge any attempt to trample upon their human rights.

**AI - Growth – DSIT Minister of State, The Rt Hon Peter Kyle MP:** “The UK could ultimately see productivity gains of up to 1.5% annually” *“Legislation will place the AI Safety Institute on a statutory footing, providing it with a permanent remit to enhance the safety of AI over the longer term.”*

Currently, there would appear to be tensions between DSIT and the views of DCMS stakeholders. The business models of both stakeholder groups are vastly different.

Research plays a crucial role in achieving the Sustainable Development Goals (SDGs) in medicine, science, technology, and some innovation. This provides the knowledge and evidence needed to identify complex challenges, develop effective solutions, monitor progress, inform policy decisions, and drive innovation across various sectors, contributing to a more sustainable future for all. This is based on the solid foundations of funded, peer reviewed research which is its data strength. The more it is shared, the greater the opportunity to discover solutions which lead to growth.

### **Researchers are paid for their work.**

The CI, which play a crucial role in one of the eight growth sectors must invest time, resource, skill, talent, expertise, experience to create their work. Any dilution of the protection which limits their ability to receive fair recompense for their efforts cannot be diluted by those who believe they can use their work without permission.

### **Copyright creators are not usually paid until their work is either used, published, watched, listened to, licensed, sold, or produced.**

To date there are no details or solutions provided by the current government to underpin the principles of safety and what this encompasses. With respect, a permanent remit to enhance the safety of AI should not only be an immediate priority but it must be practical, workable and promote anticipatory governance and futureproofing at its core. With the exponential accelerated growth of AI and its existential threats from bad actors, a projected gain of 1.5% gains annually should not be at the cost of the safety and security of our human-centric knowledge assets.

**AI v The UK CI** *The CI are expected to grow by over 26% by the end of 2025, contributing £132.1 billion to the economy. The UK government's CI sector vision aims to increase annual Gross Value Added (GVA) by £50 billion by 2030. The UK CI are an ongoing UK growth and success story both economically, societally, and culturally.*

We question Google's UK Economic Impact Report which highlighted that "AI-powered innovation could create over £400 billion in economic value for the UK economy by 2030". As with any such forecast, it should be viewed as an estimate rather than a guaranteed outcome.

### **AI and the CI – a unique opportunity.**

- By co-existing, creative UK and Big Tech are rich in ways that both can achieve growth by creating a practical and accessible licensing/business model within which both can work with mutual respect to use and grow content through GAI.
- The CI are acknowledged as one of eight growth sectors by government, so it is right that copyright law should be skewed towards growth with adequate safeguards so that human centric creation is not eroded by “million mile an hour” GAI which will sap our ability as

human centric originators leaving little left to data mine. Estimates say we could run out between 2026 and 2030.

- When we have no original creators left, will the next step be an AI produced ballet, play or film with a robot cast?
- The government itself repeatedly says “*the UK has one of the best IP systems globally.*” This needs to be harnessed in a positive way to ensure that our legal system can be enforced, not reduced by growing challenges from GAI.
- To date there has been little appetite by GAI business to ask permission and our government should be ensuring that pressure is mounted to engage with rightsholders to find a workable way forward to pay for GAI to establish ethically sourced and trained AI business models.
- No-one can dispute the government’s ambitious plans for growth at a time when confidence is low and growth limp and dull. There are so many positive uses of AI such as improvements in health, science and sustainability enhancing education, supporting climate action through optimised resource management, and facilitating biodiversity monitoring. AI can be used to improve learning outcomes, optimise environmental practices, and track ecological changes.
- But this cannot be at the expense of a sector which put the GREAT in Britain over many hundreds of years. Not everyone has the talent, skill, expertise, and experience to create content, whatever the sector, from the arts to games, design to publishing. How many of us could compose a song, author a book, create a plan or product design, be a screenwriter or paint a picture? FEW!
- However, machines and data are only as good as their input, and this will become sparse and disappear if originality is replaced by algorithm-based machine learning for creation.
- We support the government’s mission for long-term, secure growth in the creative and tech sectors. We are eager to see the development of a vibrant licensing market and support the sectors which rely on us for their future prosperity, but we can only do so with a robust copyright framework which preserves our exclusive rights to control our works and thereby function as a safeguard against misuse.

**AI in Classrooms: Article - A Double-Edged Tool by Sabrina Friend or Foe? - Teachers nationwide are debating whether AI tools like ChatGPT are beneficial or detrimental in education. Research from scholars at the University of South Carolina, UC Berkeley and Emerson College suggests that AI’s impact on student creativity is nuanced—it can be both helpful and harmful.**

*A study published in the Journal of Creativity examined how AI influences brainstorming. College students were first asked to generate creative uses for a paperclip without technology. A month later, they repeated the task using ChatGPT. The results showed that AI can enhance brainstorming by quickly generating diverse ideas, sparking creative exploration. However, it also raised concerns about over-reliance, diminishing students’ independent thinking skills and self-confidence. While students appreciated having AI as a “second brain,” many felt it was an “easy way out.” AI can be a powerful tool if used thoughtfully, supporting creativity without replacing critical thinking skills.*

The above research looking at tomorrow’s innovators makes the salient point that AI can be a useful tool, but the risks are significant when replacing critical thinking skills. Critical thinking has been described as an ability to question; to acknowledge and test previously held assumptions; to recognise ambiguity; to examine, interpret, evaluate, reason, and reflect; to make informed judgments and decisions; and to clarify, articulate and justify positions (Hullfish & Smith, 1961; Ennis). Can machines do this without human learning and discernment based on data alone?

**AI and Big Tech** - The author asked ChatGPT – who will benefit from LLMs using copyright without permission?

The reply was “*The businesses that stand to benefit most financially from using copyrighted material without permission in training large language models are typically those with significant AI infrastructure, vast user bases, and monetization strategies tied to AI-generated content. These include:*

**Big Tech Companies**

- *OpenAI (Microsoft-backed) – As a leader in LLMs development, OpenAI’s GPT models are widely used in enterprise applications and access to copyrighted data could enhance performance. **Worth \$3 trillion in 2024***
- *Google (DeepMind & Gemini models) – Google has extensive AI capabilities and a history of training models on web data, including potentially copyrighted content. **Worth \$2.46 trillion as of February 3, 2025.***
- *Meta (Llama models) – Meta benefits from AI-generated content integration into social media, potentially profiting from models trained on copyrighted materials. **Worth \$1.18 trillion. Early 2024***
- *Amazon (AWS & Titan models) – With AI services on AWS, Amazon stands to gain from LLMs advancements powered by broad datasets. **\$2.43 trillion***

**A total of just over \$9 trillion between four organisations. This cannot be right.**

#### **AI Startups & Research Labs**

- *Anthropic (Claude models) – A competitor to OpenAI, using large-scale data to refine AI capabilities.*
- *Mistral AI & Cohere – Smaller but growing LLM players, leveraging broad web scraping practices.*

#### **Media & Content Aggregators**

- *News and publishing AI services – Companies developing AI-driven journalism or content summarisation tools, such as Perplexity AI or Jasper AI, may gain an advantage by training on copyrighted materials without licensing costs.*
- *AI-driven creative tools – Platforms like Runway ML and Stability AI (for generative media and text-based tools) could benefit from using copyrighted works for training.*
- *Companies that train models without proper licensing may gain financially through enhanced AI performance while avoiding copyright fees, but they also risk legal battles as content owners push for stricter enforcement and lawsuits (e.g., The New York Times vs. OpenAI).*

**AI and Legal cases** - *Litigation is the luxury of the few, especially lone, micro and SME creators making it a significant challenge to take legal action if their copyright has been used without permission. In the long-awaited Stability AI and Getty images case, on 15 January the Judge has suggested that both parties consider a pragmatic solution highlighting the complexities of applying traditional IP laws to emerging AI technologies.*

Even Judges are finding AI and IP difficult to navigate.

#### **FINALLY,**

ACID recommends that all policy and decision makers read ACID Ambassador Tim Clement-Jones CBE., excellent book. Living with the Algorithm: Servant or Master – AI Governance and Policy for the Future. [Amazon](#)

A quote from the foreword by the philosopher Yuval Noah Harari is:

**“We should regulate AI before it regulates us!”**

Sage advice.

---