AI copyright consultation response

To whom it may concern,

Many thanks for providing the opportunity to respond to your consultation of AI guidance in the energy sector. I am writing in my capacity as a researcher and lecturer at the University of Bristol where for the past 5 years I have been researching the regulatory issues surrounding digitalisation in across a variety of critical sectors.

Yours sincerely,
Dr Ola Michalec

Question 1. Do you agree that option 3 is most likely to meet the objectives set out above?

No, I do not support option 3 (rights exception) as it places disproportionate burden on creators, requiring additional labour and awareness from them. Copyright is not only about protecting 'human creativity' but also ensuring fair working conditions in creative sectors. Over time, creators work has become increasingly precarious (e.g. shares of profits for music platforms like spotify or publishers; prohibitive working visa conditions post-Brexit).

It's essential that access to data is not treated as an externality and that it is properly accounted for. The extraordinarily high valuations of leading AI companies show they could easily afford compensating individual freelance artists for their copyright.

Question 2. Which option do you prefer and why?

I advocate for Option 1 (Strengthen copyright requiring licensing in all cases).
Given the multitude of copyright lawsuits against companies allegedly stealing data to build AI models (example 1, example 2, example 3), it is essential to agree on a systematic approach to the issue.

I am very worried by the following statement issued in the consultation: "However, it is highly likely to make the UK significantly less competitive compared to other jurisdictions – such as the EU and US – which do not have such restrictive laws. This would make the UK a less attractive location for AI development, reducing investment in the sector. In doing so, it may not actually increase the level of licensing undertaken by AI firms". This line of reasoning shows early signs of the regulatory capture by the corporate interests. It is important to remember that the AI market is extremely speculative and there is no guarantee that tools developed in the future will serve the

public or contribute to the nation's economic growth. As Nobel laureate, Daron Acemoglu, states: "When it comes to productivity, I don't think we should belittle 0.5 [growth] percent in 10 years. That's better than zero. But it's just disappointing relative to the promises that people in the industry and in tech journalism are making."

Question 20. What is a proportionate approach to ensuring appropriate transparency?

Ensuring transparency in AI and copyright ought to be grounded in empirical economic evidence about the following:
- information about business models of AI firms, especially if they involve servitisation, platforms as these business models risk user lock-in and prevent competition
- information about how AI firms use copyrighted data, e.g., what stage(s) model training
- information about AI companies valuations, revenues, profits and losses
- information about profit sharing deals between creators and labels/publishers/platforms, e.g. Guardian AI deal
- information about creators' rates for labour and permissions to use copyrighted work

Question 47. What other developments are driving emerging questions for the UK's copyright framework, and how should the government respond to them?

It is important to exercise caution and avoiding overstating the promises of AI. Above all, the AI 'supply chain' market (that is companies including chip manufacturers, frontier model developers, energy sector specific solutions, buyers of those solutions as well as providers of data models are trained on) in the UK as well as globally has a highly speculative and promissory character (Widder and Nafus, 2022; Galanos, 2023). The game-changing potential of AI is not sufficiently evidenced; indeed, the current state of the AI sector is resembling of a frantic dash for relevant use cases and (ideally free of charge, in the eyes of model developers) datasets. Therefore, the current efforts of the UK Government should be focused on establishing appropriate methods for evidencing that the benefits of the proposed AI solutions outweigh their costs (or harms). Within that, I welcome the inclusion of transparency and balance principles identified. They do need to come with more ambitious guidance recommending how stakeholders could meet those principles. I caution against commissioning reports which further contribute to the unfounded hype behind digitalisation and AI (cf. ARUP, 2024 or, indeed, the so-called "AI Opportunities Plan" which mounts requests for public funds while lacking clarity how AI investors would share any prospective dividends with their workers, creative workers or the taxpayers).

The dynamics of the market for AI are currently poorly understood, hence it should be the Govt's priority to conduct 'political economy analysis' , i.e. map out all relevant stakeholders, their interests, potential conflicts and alliances. The digital economy has never been particularly characterised by its fairness when it comes to competition, with critics highlighting negative effects, like 1) platform lock in / data enclosures (Sadowski, 2020) 2) regulatory capture (Saltelli et al., 2022); 3) waste of public spending under pressures from venture capitalists (Birch, 2022). As we're witnessing an increasing concentration of power of companies like Meta (now owning Instagram, WhatsApp, Facebook) as well as dangerous alliances with the far-right politicians in the US, it is of utmost importance that the UK's regulatory approach avoids paving the way for parallel developments in the UK creative sector.