ukie

Consultation on Copyright and Artificial Intelligence

Ukie Submission
25 February 2025

About Ukie

Ukie is the trade body for the UK's video games and interactive entertainment industry. A not-for-profit, it represents more than 700 games businesses of all sizes from start-ups to multinational developers, publishers, and service companies, working across online, mobile, console, PC, esports, virtual reality and augmented reality. Ukie aims to support, grow, and promote member businesses and the wider UK video games and interactive entertainment industry by optimising the economic, cultural, political, and social environment needed for businesses in our sector to thrive.

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

The video games industry and the value chain which supports it rely both on advances in technology and an effective copyright regime to allow for creativity as well as investment in new works and intellectual property in order to sustain it in the long term. The UK video games industry contributes over £6bn to the UK economy, whilst there is an estimated £1bn in additional spillover into the wider economy from technology pioneered initially in the video games industry.

Ukie supports the responsible development of AI technologies and a thriving and robust AI economy. As with many technological advances, there are tremendous opportunities presented by the continuing development of AI, not only for players of video games, but society more broadly.

The video games industry in particular is a significant user and developer of low-risk AI technologies within the UK creative industries. AI has been central to games development for decades and advances have led to highly sophisticated and enriching player experiences. There are also potential benefits in shortened development times which may allow games developers to focus on greater creative outputs. There are also applications in AI assisted content moderation which have led to safer experiences for players online.

However, with these advances also come challenges and legal questions around our copyright framework, in particular the potential use of copyrighted works as inputs to the development of AI technology such as Large Language Models (LLMs), text-to-image generators and comparable tools, but also the copyright status of works produced with the assistance of generative AI technology. Alongside this there must be careful consideration of transparency obligations which balance the need to provide certainty to creators and rights holders and downstream providers over the status of copyrighted works with the need to preserve confidential information, protected data and trade secrets.

The UK copyright framework is well established and has provided legal certainty for both individuals and companies within the creative industries, and more broadly, for decades. The Creative Industries are worth £125bn to the UK economy and employ 2.3 million people and have been identified as a key growth sector in the Government's recent industrial strategy. Careful consideration must be given in seeking to change an established and internationally recognised 'gold standard' framework which has helped to generate significant growth for the UK economy, of which the UK video games industry is a driving force.

Government must also ensure that an imbalance is not created whereby companies and individuals in the video games industry and the creative industries more broadly are unable to control and extract value from their intellectual property – and generate new ideas and intellectual property and content going forward.

Our members have expressed a range of views on the Government's proposals, and the majority agree with comments from Government Ministers that no exception should be introduced without a demonstrably workable rights reservation that is applicable to different types of businesses and content, easy to use, and cost effective. Whilst AI development is likely to be a transformative tool with pervasive applications across sectors, not just limited to games – it must be seen to augment human creation, create added value and ultimately economic growth.

Question 2. Which option do you prefer and why?

Our members have expressed a range of views on the Government's proposed options. The UK video games industry is a highly internationalised industry that comprises of large multinational game platforms, publishers and developers – but is significantly weighted towards small and medium sized game developers. Many also operate in a multijurisdictional context and so whilst there is familiarity with the opt-out system in the EU – there is also a degree of scepticism as to how rights can effectively be reserved without an agreed technical solution.

A broad exemption for text and data mining with a system of rights reservations, or an opt-out (i.e. the proposed Option 3), potentially offers a solution to this scenario. This system would in theory allow creators the ability to opt out of the use of their works for commercial purposes, where there is lawful access – and for a license to be required should their work or data be used in the training of a commercial AI model.

It is important, as the Government has highlighted, for any system of rights reservation to be functional, effective, interoperable and easy to use for all creatives and companies – whilst reflecting that any system must be suitable for a wide range of content and mediums. A system of opt-outs places the responsibility on the creator and not the AI developer and so any system must give a creator certainty – and ultimately be tested and proven to be effective.

Whilst an opt out system has existed in EU law since 2019 with the passing of the DSM copyright directive, questions have been raised about the feasibility of technical measures designed to support an opt-out system. Whilst technology is developing, no proven technical system is in place or has been adopted yet by the European Commission. This is highlighted by the fact that there have been contrasting judicial decisions by EU courts as to whether opt-outs have to be expressed in a machine-readable means or in natural language. Therefore, it would be prudent for Government to evaluate a range of options with regards to a potential technical solution.

It is vital to provide certainty to both creative businesses and AI developers in this reform and so Government should ensure a viable technical solution is achievable when changing primary legislation. This should be achieved through developing industry standards that can be adopted in a way that is technically feasible and meets the needs of all industry stakeholders.

Question 3. Do you support the introduction of an exception along the lines outlined above?

Ukie members have expressed a range of views on the Government's preferred position of a TDM exemption with a system of rights reservations or opt outs. There is scepticism that a system of rights reservation will be suitable in particular for smaller studios and creators, though larger companies within our membership have also expressed concerns about the feasibility of this proposal and its impact on their businesses.

Whilst a TDM opt out has existed at an EU level since 2019 with the adoption of the DSM Copyright Directive, the onus on opting out is placed on the business or individual creator themselves through machine readable technical solutions. Currently, different creative sectors approach their right reservations depending on their type of content and use case/risk.

We agree with Government that any technical solution which is brought in alongside a TDM exemption and opt out must be based on lawful access, clear, easy to use and technically workable for the UK video games industry, both because the industry is largely comprised of SMEs, who have very limited resources and limited recourse to legal support, and because the creative businesses in our industry hold a very significant number of copyrighted works, and are reliant on the ability to be fairly compensated for the use of those works.

If the Government determines that Option 3 is a preferred course of action following the consultation period – we believe it would be necessary to fully interrogate the range of technologies and solutions that have been proposed or could be developed by AI developers. A working group, bringing together AI developers and creative industries should be convened as soon as possible following the consultation period to evaluate all opportunities – reporting back prior to the consideration of primary legislation.

Question 4. If so, what aspects do you consider to be the most important? If not, what other approach do you propose and how would that achieve the intended balance of objectives?

A successful opt-out mechanism depends on the development of robust technical standards which must be machine-readable, universally applicable and resistant to circumvention. Also, any mechanism must be limited to works to which the entity relying on the exception has lawful access, be capable of being applied at a work specific level and accommodate the reality that for many sectors works are made available across many different platforms.

There is doubt as to whether current technical prevention measures such as robots.txt are sufficient in offering the level of control to creative businesses or individual creators as it operates only at a domain level – and does not prevent the use of copyright material without a license 'downstream'.

The downstream use of copies is prevalent in the video games industry – more so than in many other industries - and serves to highlight the difficulties of developing an effective opt out mechanism. By way of example, it is very common for players to stream games on sites such as YouTube or Twitch; similarly, players very often post screenshots of gameplay footage, or characters and locations from games online. The websites and applications where a player might do this are innumerable. Taking two examples of mechanisms mentioned in this consultation, the Robots.txt method can only be relied upon on web domains controlled by the rights holder and so cannot be relied upon as an opt out for downstream copies of works on other domains; similarly, metadata could be applied to a work but is easily removed when the work is copied. There are also some mediums (such as text) that cannot always have metadata added to them.

Mechanisms also need to be able to reflect the wide array of video games content that exists. There are hundreds, if not thousands of older formats of games available which may no longer be supported by a developer or publisher with new technical updates. Given this variety there may need to be a range of technical solutions which cater towards more historic games works.

It is vital that if Government is anticipating changing the UKs copyright framework, a robust technical solution, or solutions, be in place that provides AI developers as well as creative businesses and individual creators with certainty and look to harmonise where possible with any opt out mechanisms developed in other jurisdictions such as the EU.

However, in addition to the need for a workable technical solution, any new system should be clear that AI developers are legally obliged to adhere to an opt-out and respect copyright protections – with sufficient measures in place to be able to monitor adherence and coupled with appropriate transparency measures.

Without appropriate safeguards and transparency requirements on developers a new system could potentially compromise the Government's overall aim of fostering innovation and growth in our creative industries.

Question 9. Is there a need for greater standardisation of rights reservation protocols?

Any technical solution that accompanies changes to the law must work across various industries and mediums and be flexible enough to suit the characteristics of a multitude of businesses and individual creators, while being sufficiently standardised to ensure that all parties understand how to technically express as well as observe rights reservations.

Any technical solution must allow rightsholders to reserve their rights in a way which is practicable for their particular types of works, whether it be machine readable in the usual sense, or in natural language that is clear enough for a machine to be able to read it, This in turn would allow AI developers to identify opted out works at scale and for the preferences of rightsholders to be respected efficiently and effectively.

Question 10. How can compliance with standards be encouraged?

If the opt out is tied to the reservation of rights, this will mean that the TDM user is unable to rely on the TDM exception, when a rightsholder reserves their rights with respect to a work. If TDM is performed on that work, and if no other exceptions or defences are available, then remedies would be available under copyright law, if copyright is infringed.

Some members believe that the UK could look to the approach being taken in the EU in which compliance with standards is encouraged through the development of Codes of Practice, which would require signatories to follow best practices and make best efforts to recognise and comply with the opt-out methods.

These Codes of Practice are currently still being considered at the EU level but could serve as a structured approach to promoting adherence in the UK.

As detailed above in our answer to question 4, the Government should consider convening a technical working group, bringing together AI developers and creative as soon as possible following the consultation period to evaluate all opportunities around transparency and the adoption and enforcement of standards – reporting back prior to the consideration of primary legislation.

Question 11. Should the government have a role in ensuring this and, if so, what should that be?

Government has a role to play in convening AI developers and rightsholders and setting the parameters for an acceptable standard and placing the onus on AI developers to propose solutions. It should also consider what mechanisms it can employ to incentivise this development, either through research funding or potentially widening the eligibility and definitions of R&D tax credit to allow this category of research and development to be claimed by companies seeking workable solutions within a Government set framework. A system of incentives could not only incentivise research in this space but have a knock-on effect in encouraging licensing under an agreed technical solution.

Furthermore, the UK Government should seek to co-operate and co-ordinate with EU institutions and European partners when engaging AI developers in order to ensure a technical solution that works for both frameworks.

Question 12. Does current practice relating to the licensing of copyright works for AI training meet the needs of creators and performers?

Some of our members have highlighted an issue of AI-related licensing being bundled with other rights in standard contractual agreements, making it difficult for smaller creators to opt out of AI training use without also losing broader licensing opportunities. Any system of rights reservation, as it evolves, must be flexible and practical enough for smaller companies to utilise effectively with sufficient transparency around the data used to train AI models.

Ultimately licensing practices for data that is opted out, or not publicly available under any new system of rights reservation should ensure choice and fair remuneration for all creators.'

Question 13. Where possible, please indicate the revenue/cost that you or your organisation receives/pays per year for this licensing under current practice.

N/A. Revenue and costs associated with AI-related licensing, while still not realised by many games companies, vary significantly depending on the sector and size of the organisation.

Question 14. Should measures be introduced to support good licensing practice?

Yes, there is a strong need for measures that support fair and transparent licensing practices.

Key areas for improvement include:

- Greater transparency in the use of copyrighted works for AI training– Ensuring that creators fully understand how their work will be used in AI training.
- More accessible licensing structures for SMEs – Simplified licensing processes for independent creators and smaller businesses so that they can participate without excessive legal and financial burdens.

By implementing these measures, the industry can foster an ecosystem where both AI developers and content creators benefit equitably from advancements in AI technology.

Question 15. Should the government have a role in encouraging collective licensing and/or data aggregation services? If so, what role should it play?

The government can play a role in facilitating voluntary collective licensing and data aggregation platforms. However, it is essential that any framework is voluntary and appropriate to the industry in question, recognising the rights of a range of businesses.

For certain sectors collective licensing can be a useful tool for streamlining transactions between rightsholders and AI developers, however these systems have not traditionally been developed in the UK video games industry where companies may find it preferable to negotiate directly. Any such systems should:

- Ensure creators retain agency – Participation in collective licensing should be voluntary, allowing rightsholders to opt in or out as they see fit.
- Prevent large-scale exploitation – The framework should not allow dominant organisations to license works en masse without the explicit consent of the original creators.
- Maintain international compatibility – Given that AI training datasets often span multiple jurisdictions, licensing frameworks must account for differences in copyright law across countries to avoid legal uncertainty.

Question 16. Are you aware of any individuals or bodies with specific licensing needs that should be taken into account?

Many rightsholders in the video games sector prefer direct negotiations with AI developers, as this allows for more tailored agreements that align with their specific creative and financial priorities. Direct licensing can also foster innovation by enabling fairer compensation models that balance AI development with copyright protection.

Additionally, different creative sectors—such as, music, and visual arts—have distinct licensing requirements. Licensing frameworks should be adaptable to the diverse ways in which copyrighted works are used across industries.

Finally, jurisdictional complexities must be considered. Aspects of copyright laws vary widely between countries, and AI models are often trained on datasets compiled from multiple regions. Any licensing framework must take these variations into account to ensure fair and effective implementation.

Question 17. Do you agree that AI developers should disclose the sources of their training material?

Yes, our members believe that AI developers should provide transparency about the sources of their training material. However, any disclosure requirements must be measured, practical, and designed to balance transparency with feasibility. Excessive requirements could impose higher costs and disproportionately impact smaller AI developers. It is important that any requirement does not risk exposing trade secrets or violating confidentiality agreements.

In addition, it is important to draw a distinction between the developers of general purpose AI models, who commercialise those models as a standalone product, and those users or deplyers of AI tools who may be fine tuning their own versions of models for specific use cases (and who would not, in any event, be carrying out TDM on third party data). For the avoidance of doubt, these internal fine-tuning processes should not be subject to equivalent transparency requirements if they are not trained on third party data or otherwise risk disclosing trade secrets.

A proportionate approach should involve a description of training data sources which should be proportionate and allow for the protection of trade secrets. This could include as a minimum:

- A narrative explanation of the types of datasets used including public and open datasets including the types of data e.g. text, images, video etc)
- References to content and data publicly available online, including information as to when such sites and datasets were accessed, where applicable (subject to feasibility in the case of third-party datasets); and
- References to copyright protected material licenses by rightsholders.
- An overview of the model's purpose and how training data informs it.

This approach would allow stakeholders, including copyright holders, to assess whether their rights and choices have been respected while ensuring that disclosure remains manageable for AI firms.

We recommend that Government convene a working group with AI developers and rightsholders to work out a practicable solution which balances these considerations and gives rightsholders across a variety of mediums, greater visibility as to the status of their works in a digital context.

Question 18. If so, what level of granularity is sufficient and necessary for AI firms when providing transparency over the inputs to generative models?

The level of granularity required should strike a balance between meaningful transparency and feasibility. Overly detailed disclosures could create significant administrative burdens without necessarily improving stakeholder understanding.

A practical level of transparency would involve high-level descriptions of data sources, distinguishing between licensed, publicly available, and proprietary sites and datasets, and providing the dates when those sites and datasets were scraped. Where large-scale datasets are used, AI developers should acknowledge their use without needing to provide a complete inventory. It is also important that any non-crawler-based capture (such as screenshots or video from applications or games) be disclosed as part of this information.

Additionally, AI developers should be able to explain how data is processed and used, particularly any steps taken to ensure compliance with copyright laws and ethical standards. As detailed in our answer to question 17, requirements should be balanced against considerations of practicality, particularly for smaller games developers and creators and Government should seek to balance these requirements through convening a technical working group.

Question 19. What transparency should be required in relation to web crawlers?

AI developers should disclose clear and accessible information about their use of web crawlers and bots to ensure transparency in how data is collected. This should include public documentation outlining the purpose and scope of web crawling activities, making it clear whether the collected data is used for AI training, search indexing, or other purposes.

Web crawlers should be clearly identifiable through user-agent strings, allowing website operators to distinguish between different AI firms and their data collection practices. AI developers should also adhere to established protocols such as robots.txt, enabling website owners to control whether their content is crawled. These measures would promote responsible data collection while avoiding unnecessary reporting obligations that could hinder AI development.

These transparency obligations might be considered necessary even without the extension of the current text-and-data mining exception, as they allow rightsholders to evaluate whether the existing exception for scientific research is being respected (based on the stated purpose and ownership of the web crawlers and bots).

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

A proportionate approach to transparency for AI developers (not users) must balance the need for disclosure with the realities of AI development, ensuring that obligations are meaningful but not excessively burdensome, as described above. As detailed in our answer to question 17, requirements should be balanced against considerations of practicality, particularly for smaller games developers and creators and Government should seek to balance these requirements through convening a technical working group.

Any framework should also align with existing industry practices, recognising efforts like model documentation, research publications, and transparency reports that many AI developers already produce.

Question 21. Where possible, please indicate what you anticipate the costs of introducing transparency measures on AI developers would be.

The cost of implementing transparency measures will vary significantly depending on the extent of disclosure required.

If AI developers are required to fully document and disclose every piece of training data used, compliance costs could be substantial. Smaller companies may also face disproportionate challenges, as they may need to hire legal and compliance experts, implement new data tracking systems, and allocate resources to administrative tasks instead of core development.

However, if a more practical approach is taken—such as the use of model cards, transparency notes, and narrative disclosures—these costs would be significantly lower. Larger AI firms may be better positioned to absorb compliance costs, but for smaller AI developers, excessive reporting obligations could limit their ability to compete in the AI marketplace.

As detailed in our answer to question 17, any requirements should be balanced against considerations of practicality, particularly for smaller games developers and creators and Government should seek to balance these requirements through convening a technical working group.

Question 22. How can compliance with transparency requirements be encouraged, and does this require regulatory underpinning?

Compliance with transparency requirements should be encouraged through alignment with industry best practices, albeit with a clear legal foundation.

Many AI firms already publish model documentation and transparency reports voluntarily, and governments should support and incentivize these efforts. If regulatory underpinning is necessary, it should provide clear guidelines rather than impose inflexible requirements, allowing AI developers to tailor disclosures to their specific models and use cases. Transparency frameworks should also recognise existing industry initiatives, such as the use of model cards and dataset descriptions, to avoid duplication of effort.

A phased approach to implementation, with opportunities for feedback and adjustment, would help ensure that transparency measures remain practical and do not stifle innovation.

Regulations should be designed to account for the diversity of AI applications, acknowledging that not all AI models present the same level of risk or require the same degree of transparency. A one-size-fits-all approach would not be appropriate, and any regulatory measures should be adaptable to different industry needs.

Question 23. What are your views on the EU's approach to transparency?

As regards copyright, the EU AI Act introduces transparency obligations aimed at increasing accountability and provide a tool to allow for efficient enforcement.

The EU is currently holding stakeholder dialogues to determine how AI providers should comply with transparency obligations.

We believe it would be appropriate for the UK Government to hold a similar dialogue with AI developers and rightsholders to determine a proportionate approach to transparency, accountability and enforcement.

Question 24. What steps can the government take to encourage AI developers to train their models in the UK and in accordance with UK law to ensure that the rights of right holders are respected?

The most effective way to encourage AI developers to train their models in the UK while ensuring that right holders' rights are protected is to create a competitive and attractive environment for AI development. Rather than introducing compulsory licensing frameworks that apply regardless of where models are trained, the government should focus on policies that promote domestic AI development through incentives, regulatory clarity, and alignment with international standards. This includes ensuring that the UK provides a stable and predictable regulatory framework that allows AI companies to innovate while maintaining respect for copyright and intellectual property rights.

Financial incentives, such as tax relief or grants for AI research and development, could further encourage companies to base their AI training operations in the UK.

It is also essential to maintain an open and internationally competitive AI market. Restricting the ability to use models trained outside the UK could limit the availability of AI technologies and stifle innovation. Instead, the government should focus on ensuring that AI models developed internationally can still be deployed and used in the UK under a clear and fair regulatory framework.

Question 25. To what extent does the copyright status of AI models trained outside the UK require clarification to ensure fairness for AI developers and right holders?

There is a need for greater clarity regarding the copyright implications of AI models trained outside the UK to ensure fairness for both AI developers and right holders. The UK's current copyright framework is widely recognised as a strong attractor for businesses and represents a 'gold standard' for licensing and intellectual property protection. Any changes to this framework should be carefully considered to maintain the UK's competitive advantage while avoiding excessive regulatory divergence from international approaches.

A harmonised approach with key trading partners could help prevent regulatory uncertainty and facilitate international AI collaboration.

Question 26. Does the temporary copies exception require clarification in relation to AI training?

The temporary copies exception is a crucial component of the UK's copyright framework, as it allows computers to create necessary copies to extract and analyse non-protectable elements of copyright works.

Question 27. If so, how could this be done in a way that does not undermine the intended purpose of this exception?

We do not believe that any clarification is necessary.

Question 28. Does the existing data mining exception for non-commercial research remain fit for purpose?

Our members believe that the existing data mining exception for non-commercial research is generally fit for purpose but requires updates to address the specific challenges presented by AI development.

Our members believe that ensuring clear definitions of lawful access" is essential to maintaining a fair balance between supporting legitimate research and respecting copyright protections.

Regarding the interpretation of the provision, it should explicitly outline what qualifies as lawful access to copyrighted materials.

Question 30. Are you in favour of maintaining current protection for computer-generated works? If yes, please explain whether and how you currently rely on this provision.

Our members recognise that the current CGW provisions provide a foundation for addressing copyright in AI-generated works, but their interpretation remains uncertain.

Question 31. Do you have views on how the provision should be interpreted?

We believe that CGW legislation would benefit from greater legal clarity, particularly in defining the originality requirement

Question 32. Would computer-generated works legislation benefit from greater legal clarity, for example to clarify the originality requirement? If so, how should it be clarified?

In terms of impact, we anticipate that reforming the CGW provision would have a minor positive impact on the sector. Clearer legislation would provide more certainty, enabling businesses and creators to navigate copyright issues more effectively and reducing the risk of disputes. However, as the use of AI in creative industries continues to evolve, the full impact will depend on how reforms are structured and whether they strike a fair balance between supporting human creators and allowing AI-driven innovation to thrive.

Question 33. Should other changes be made to the scope of computer-generated protection?

Please see answer to question 32

Question 34. Would reforming the computer-generated works provision have an impact on you or your organisation? If so, how? Please provide quantitative information where possible.

Rather than removing CGW protections entirely, our members believe the focus should be on clarifying the legal framework. Eliminating CGW protections could create uncertainty for businesses that rely on AI-assisted creativity and discourage innovation in the UK's digital economy.

If copyright protection for computer-generated works without a human author were removed, it could have unintended economic consequences. Many businesses and developers currently invest in AI-generated content with the expectation that they will retain rights over these works. Without a clear framework, companies may be less willing to invest in AI-driven creative projects, potentially limiting innovation and reducing the UK's competitive position in this space.

Question 35. Are you in favour of removing copyright protection for computer-generated works without a human author?

Please see answer to question 34

Question 36. What would be the economic impact of doing this? Please provide quantitative information where possible.

The impact of removing CGW protections would depend on the nature of the business. While some organisations might see no impact, others—particularly those in the gaming, design, and digital content industries—could face difficulties in protecting their AI-generated assets. A more balanced approach would involve clarifying the conditions for copyright protection rather than removing CGW provisions altogether

Question 38. Does the current approach to liability in AI-generated outputs allow effective enforcement of copyright?

Some members believe that the current approach to liability in AI-generated outputs does not provide sufficient clarity or enforcement mechanisms to ensure accountability for copyright infringement. Some members believe that ambiguity around responsibility—whether it lies with the AI developer, the user, or the platform—creates challenges for effective enforcement. Other members believe that the law is clear in this area.

Question 39. What steps should AI providers take to avoid copyright infringing outputs?

To mitigate copyright risks, members recommend AI providers take proactive steps, including ensuring that training datasets are sourced from licensed or public domain materials, providing transparency regarding the origins of training data. Additionally, clear definitions of user responsibilities and limitations within terms of service are essential to prevent misuse and uphold copyright protections.

Question 40. Do you agree that generative AI outputs should be labelled as AI generated? If so, what is a proportionate approach, and is regulation required?

Ukie members support the appropriate labelling of generative AI outputs in some contexts to promote transparency and help users distinguish between AI-generated and human-created content. This is particularly important in areas where there is a risk of consumer confusion or misinformation such as journalism, and online content moderation. However, while labelling is necessary in certain circumstances, it should not be required where there is a very low risk of consumers being confused or misled. A good example of where consumers are very unlikely to be confused about whether an image is 'real' or not is in video games, which consumers play in the knowledge that they are viewing fictional content.

Requirements should also not create unnecessary burdens on businesses, particularly smaller developers and independent creators; one way of achieving this is to ensure the onus is on AI developers/providers to ensure that certain generative AI outputs are labelled, rather than on the business that generates outputs using AI tools.

For non-commercial or experimental uses, more flexibility should be allowed to avoid stifling creativity and innovation. Mandatory labelling for all AI-generated content, regardless of context, could lead to unintended consequences, such as discouraging innovation or creating excessive administrative overhead.

Transparency obligations must also consider the different ways AI is integrated across industries. For example, in the video games industry, AI is used in varied and often non-intrusive ways, such as procedural content generation or AI-driven game mechanics. Any labelling or disclosure requirements for AI-generated content should not be so complex or restrictive that they disrupt innovation. By following these principles, transparency measures can foster trust in AI while ensuring businesses, particularly smaller developers, are not overburdened by impractical compliance obligations. Ultimately games are set in fictional universes and so AI disclosures are not warranted as users expect to interact with fictional, computer-generated content. If labelling is required, it should only be mandated for high-risk uses and not entertainment.

Question 41. How can government support development of emerging tools and standards, reflecting the technical challenges associated with labelling tools?

The Government can play a crucial role in supporting the development of AI labelling tools and standards by investing in research, fostering industry collaboration, and providing financial incentives for adoption. One of the biggest technical challenges associated with labelling AI-generated content is ensuring accuracy and reliability, especially as AI models become more advanced and capable of mimicking human-created work. Automated labelling tools are still in development, and government-backed research could help accelerate their effectiveness and adoption.

To achieve this, the government should fund research into AI detection and watermarking technologies, which could enable automatic identification of AI-generated content without placing an excessive burden on developers. Additionally, public-private partnerships with industry stakeholders would ensure that labelling frameworks are practical and aligned with real-world use cases. By engaging directly with technology developers, creative industries, and consumer protection groups, the government can help establish best practices that work across different sectors.

Providing incentives for businesses to adopt and refine labelling standards would also be beneficial. For example, tax reliefs or grant funding for companies developing AI transparency solutions could encourage innovation in this space. Finally, any government-led initiatives should ensure interoperability with international standards to avoid creating fragmented approaches that complicate compliance for businesses operating across multiple jurisdictions.

Question 42. What are your views on the EU's approach to AI output labelling?

The EU's approach to AI output labelling represents a reasonable approach as it aims to enhance transparency and accountability for AI-generated content, with flexibility for creative content where there is no risk of consumer confusion or misinformation to ensure that enjoyment of content is not affected By establishing clear labelling requirements, the EU seeks to provide users with greater visibility over the origin of content and ensure that businesses using generative AI do so responsibly. However, there are concerns that the EU's approach may be overly rigid, particularly for smaller businesses and independent creators who may struggle with the compliance burden.

A key issue with prescriptive AI labelling requirements is the potential for unintended negative consequences. If labelling obligations are too broad or inflexible, they could discourage AI adoption, slow down innovation, or create significant costs for businesses that lack the resources to implement complex labelling mechanisms. There is also the challenge of enforcement—ensuring that AI-generated content is consistently and accurately labelled across different platforms and jurisdictions is a complex task that requires technological solutions, not just legal mandates.

Rather than adopting rigid, one-size-fits-all labelling rules, the UK should ensure that any AI labelling framework is flexible enough to accommodate different use cases and context of use. Alignment with global standards is also crucial—if the UK takes a significantly different approach from the EU or other major markets, it could create regulatory fragmentation that complicates compliance for businesses operating internationally. By prioritising practical and proportionate measures, the UK can promote AI transparency while maintaining a competitive and innovation-friendly environment.

Question 44. Could you share your experience or evidence of AI and digital replicas to date?

As argued throughout this consultation response, video games have long been at the forefront of digital innovation, pushing the boundaries of realism and interactivity. The use of AI and digital replicas in games is a natural evolution of this progress, allowing for richer storytelling, more immersive experiences, and dynamic, responsive gameplay.

In the context of video games, realistic human characters are often a fundamental part of the user experience. However, the nature of the medium means that there is little risk of confusion about the authenticity of these representations. Players engage with games with the clear understanding that they are entering a fictional world, something which is often prefaced at the beginning of a game. The intent is not to deceive but to create compelling, engaging experiences that enhance immersion and player agency. The different nature of the low-risk AI used in games should be taken into consideration when developing policies, as otherwise games risk being regulated in the same category as high-risk AI, such as deepfakes.

Games developers have been able to harness AI and digital replicas responsibly, using these technologies to create more believable non-player characters (NPCs), refine motion capture performances, and develop adaptive storytelling techniques that react to player choices. These innovations are driven by a desire to improve creative expression and engagement, rather than to mislead or cause confusion.

It is essential that any policy interventions in this area support innovation rather than restrict it. Any legislation relating to digital replicas should be carefully considered to avoid unintended consequences for the games industry. There should be a clear recognition of and exception in regard to games and creative works more broadly. Regulation should be limited to professional performers and commercial use, with liability only applying in cases where a company has actual knowledge of unauthorised use.

Question 45. Is the legal framework that applies to AI products that interact with copyright works at the point of inference clear? If it is not, what could the government do to make it clearer?

Some Ukie members believe that the legal framework governing AI products that interact with copyright works at the point of inference is unclear. There are varying opinions regarding whether inference—the process by which AI generates outputs based on previously trained models—constitutes copyright use or infringement. This uncertainty creates risks for both rights holders and AI developers, potentially leading to legal disputes or deterring innovation due to unclear compliance requirements.

Question 46. What are the implications of the use of synthetic data to train AI models and how could this develop over time, and how should the government respond?

The use of synthetic data in AI training presents both opportunities and challenges. On one hand, synthetic data can help reduce reliance on copyrighted materials and personal data, potentially mitigating legal and ethical concerns around AI training. If synthetic datasets are generated in a way that does not rely on replication of copyrighted works, they could provide a valuable alternative for training AI while reducing the need for complex licensing arrangements.

However, the effectiveness of synthetic data depends on how it is generated. If AI models trained on copyrighted works are used to produce synthetic data, questions arise about whether this data is genuinely independent of copyright restrictions. There is a risk that, even if content appears original, it could still contain elements derived from copyrighted works, leading to potential legal challenges.

The government should monitor developments in synthetic data closely and take a proactive approach to shaping policy in this area Specifically, it should support research into the viability of synthetic data as a means of reducing copyright concerns while maintaining AI training quality. It should also consider how transparency rules which apply to training data sources to the original model, from which synthetic data is being produced, could also apply to models ingesting synthetic data. Additionally, engaging with industry stakeholders—both rights holders and AI developers—will be critical to ensuring AI training methods remain compliant with copyright law while allowing innovation to flourish.

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

Beyond inference and synthetic data, broader technological advancements are raising new questions for the UK's copyright framework. AI-generated content is increasingly being used in creative industries, gaming, and media, leading to debates about authorship, ownership, and copyright protection for AI-generated works. Additionally, the growing use of digital replicas and AI-driven interactive media presents new challenges in defining and enforcing copyright protections.

To ensure that UK copyright law remains fit for purpose, the government should take several steps:

- Strengthen transparency obligations for AI developers regarding training data sources. Greater transparency would help rights holders and content creators understand how AI models are trained and whether their works have been used in the process.
- Consider international developments to align the UK's approach with global best practices. AI and copyright issues are being addressed differently across jurisdictions, and the UK should ensure its policies remain competitive while offering flexibility for businesses operating in an international market.

By taking a balanced, forward-looking approach, the government can ensure that AI innovation continues to thrive while maintaining strong protections for rights holders and creators.