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Submission to House Standing Committee on Employment, Education and Training on the use of generative artificial intelligence in the Australian education system

July 2023

Introduction

Thank you for the opportunity to participate in this review.

Artificial intelligence (AI) has enormous potential to improve student outcomes in a variety of ways if carefully implemented, including by reducing inequalities in the education system.

However, the training of generative AI applications and their outputs are raising a number of significant concerns.

It is clear that AI platforms have used content without permission from the creators and rightsholders. This gives rise to serious ethical and legal issues, including concerns about copyright infringement. These issues extend to the use of AI outputs that are derived from unauthorised uses of content.

Generative AI has the potential to significantly reduce the incomes of people who work in Australia's creative industries, which include educational publishing. There are potential adverse consequences for investment of time, expertise and money in future quality educational resources, to the detriment of schools and students.

Other concerns about generative AI outputs include the potential for bias, misinformation and invented 'facts'. There are also issues relating human rights. Under the United Nations Universal Declaration of Human Rights, these include the right of authors to the protection of the moral and material interests resulting from any scientific, literary or artistic production.

Context for this inquiry

As the Committee would be aware, all aspects of AI are being considered in a large variety of forums globally, including by entities responsible for regulation, ethics and norm-setting.

There is also litigation in train, commenced by creators regarding the unauthorised use of their content. In the US, writers are on strike due to concerns about AI.

The global context is very fluid, both in terms of technological developments and the considerations of how best to manage the application of technology for the good of society.

There are a range of other reports and inquiries in Australia on various aspects of AI, which include:

- Australian Chief Scientist's Rapid Response Information Report: Generative AI: Language models and multimodal foundation models;
- consultation by the Department of Industry, Science and Resources on Safe and Responsible AI in Australia; and
- Attorney General's Roundtable on copyright issues relating to AI.

We will be participating in these processes, on behalf of our members.

About us

We are a not-for-profit company with nearly 40,000 members, who are primarily writers, artists and publishers. Among other things, we are appointed by the Australian government to manage schemes in the Copyright Act that allow people in the education and government sectors to copy, adapt, share and store text and images, without the permissions that would otherwise be required.

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In return, the education and government sectors pay copyright fees to people who create content, which we negotiate, collect and distribute. We also manage licensing for other sectors, including for the business sector, and people who use reproductions of artistic works. In 2021–22, we distributed $95m in copyright royalties, including to people who create educational resources. Those payments contribute to investment in future quality content for Australians, including Australian students.

Summary of position

While acknowledging the potential for AI to contribute to social good, including education outcomes for Australian students, our members have grave concerns about how their content is and could be used for AI.

Members are also extremely concerned about the potential for AI to compromise the quality of Australian content, including education resources and to unfairly reduce the income they receive from their creative practices, and investment in human-created quality content.

At a high level, they want:

• disclosure and transparency about AI inputs;
• fair compensation where their content is used in appropriate circumstances;
• regulatory settings that would exclude the use of AI outputs that derive from unauthorised uses of content; and
• human review of the accuracy and suitability of AI outputs for students.

We will continue to consult with our members on AI, as the environment evolves and the potential impacts are better understood. In a context where the global situation is so fluid, and the potential impact so far-reaching, we urge the Government to keep in mind the potential significant impacts on the creative sector, including those working in educational publishing. The need to seek progress through innovation must be carefully balanced against many other considerations, including the rights of authors, artists and publishers so recently recognised in the National Cultural Policy.

There are also particular issues for First Nations people that need to be borne in mind, including those highlighted in the Productivity Commission report 'Aboriginal and Torres Strait Islander Visual Arts and Crafts' and the National Cultural Policy.

Statutory licence schemes in copyright legislation

The statutory licence schemes that we are appointed by the Government to manage are very broad in scope.

The statutory licence for governments allows governments to use any content for 'government purposes', coupled with fair compensation arrangements. The statutory licence for education allows education institutions to copy, adapt and share content for education purposes, again coupled with fair compensation arrangements.

The current agreements covering the application of the statutory licences in these sectors do not cover the use of content for AI, but statutory licence framework allows for agreements on the use of content for AI in appropriate circumstances. Governments should, of course, demonstrate best practice in this regard, including in relation to disclosures and compensation.

First Nations culture

There are particular concerns among First Nations people about maintaining authenticity in relation to their culture, and control over how aspects of their culture is used by others. Governments and other policy makers need to bear these in mind when considering how AI can be harnessed for social good.