AI AND ARTISTS: NAVIGATING ETHICS, REGULATION, AND THE IMPACT OF AI ON ARTISTIC PRACTICE

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ABSTRACT

Advances in Artificial Intelligence (AI) have captured public interest, especially with the advent of generative AI technologies like ChatGPT and Dall-E. These tools, which create text, images, and videos rapidly and often for free, promise transformative impacts on society, economy, and culture. However, for artists, generative AI raises significant practical, ethical, and philosophical questions. A 2023 survey by DACS revealed artists' concerns about AI's impact on their work, data privacy, and the spread of misinformation. While some see AI as a positive tool, many demand safeguards and regulations, emphasising the need for consent and compensation when AI uses their work.

Keywords: artificial intelligence (AI), generative AI, artists, ethical concerns, regulation, copyright, consent, transparency

Advances in the field of Artificial Intelligence (AI) have dominated media headlines, grabbing the attention of a fascinated yet increasingly concerned public. But the recent arrival in homes and workplaces of accessible generative AI technologies – those which, like ChatGPT, Stable Diffusion, Dall-E and Midjourney, create text, images and video at a fraction of the speed of human endeavour, and often for free – has made clear to everyone just how transformative AI could be for our society, our economy and our culture. 'AI will bring a transformation as far reaching as the industrial revolution, the coming of electricity, or the birth of the internet,' said British Prime Minister Rishi Sunak ahead of the UK Government's global AI summit in autumn 2023.

For artists in particular, the development of generative AI has raised many practical, ethical and philosophical questions about the nature and sustainability of art itself. How will emerging technologies, like AI image generators, affect the creation of visual art? How should we define the concept of 'human

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creativity'? And, amid so much disruption, what can Government do to ensure that visual artists are able not just to survive, but to thrive?

At the end of 2023 DACS surveyed artists and their representatives to understand how AI impacts them, to identify what they think are the strengths, opportunities and threats entailed by AI, and to examine the barriers to using the technology in artistic practice. A total of 1,000 people responded to the survey and 352 provided comments – and the statistics and insights are hugely instructive for those who care about artists and their ability to make a living from their craft.

The first thing to note is that respondents demonstrated a strong understanding of the regulatory approaches being considered internationally at the time of the survey, with many referencing the European AI Act[1], which seeks to establish international rules for using the technology. Perhaps because of such efforts to construct a safe, fair and equitable framework, a number of artists and representatives we surveyed are optimistic that AI is a new tool that has the potential to be used positively.

However, many remain concerned. 89% of respondents said that the UK Government needs to bring in safeguards and regulation around AI, which demonstrates the depth of unease artists feel about the technology's potential impact on their work, as well as the safety of their personal data and the spread of misinformation and deepfakes. 74% say they are worried about their work being used to train AI models, and artists made clear that this should not happen without their consent and without credit or payment. Regarding the latter, 84% favour a copyright licensing scheme that would pay them a royalty when their works are used in training AI.

Artists are also worried about being left behind by the technology. Almost all the respondents (96%) said they have received no formal training in AI, and many feel a lack of skills is a barrier to using it in their practice. Given that 85% of the artists surveyed have been practising for over 10 years, this suggests artists in the UK are unable to access professional development and skills courses, outside of standard higher education routes.

One respondent to the survey asked: 'what role do image makers play in a world of infinite images?' In many ways this question cuts to the heart of the issue of whether there is still a place in society for human artists, and if so, how they will be rewarded. The comment also chimes with other artists' stories, who report losing jobs or opportunities to clients favouring AI-generated outputs.

DACS' latest report, "Intelligence and Artists' Work: A survey of artists on AI", brings these findings together into one place and analyses them according to four main themes: copyright and compensation; jobs and opportunities; skills; and regulation. Based on the results, we are setting out

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[1]https://www.europarl.europa.eu/topics/en/article/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence

five policy recommendations to the UK Government, which must now urgently respond to the profound changes AI will bring.

CONSENT, CONTROL AND COMPENSATION

Firstly, on the theme of consent, control and compensation, it is vital that AI models comply with copyright law and that such models are built on the basis that artists have authorised use of their work for AI training. Copyright gives artists the right to consent to uses of their works, to decide whether their works should be used in a certain way, and to be paid a fair fee through a licence. Opt-out tools have been developed to allow artists to control the use of their images, by preventing them from being used for training AI models. However, this is not a replacement for licensing of works that are – and have been – ingested for training. Nevertheless, if artists have made use of opt-out tools, these must be respected and enforced by technology companies training AI models.

TRANSPARENCY

Our second theme is transparency. AI models must be transparent about what data is being used for machine learning and where this data is sourced from, to bring absolute clarity on whether or not an artists' work was used for training. Artists must also be able to determine whether authorisation was given inappropriately on their behalf by a third party. Copyright should be on a par with widely accepted approaches to personal data, which give an individual the right to access, rectify, oppose the use of and erase their data. AI-generated outputs should be clearly labelled as such. This would benefit public safety by addressing issues of misinformation and in turn build public trust in AI.

REGULATION

Our third theme is on regulation. Without a safe and ethical framework for AI tools to develop, trust in AI will be low. Respondents to our survey demonstrated a widespread concern over ethical and legal considerations of AI, with 89% of respondents feeling the UK must bring in safeguards and regulation to make AI safer. Artists were not only concerned about the use of their work, but also about the use of personal data, misinformation and deepfakes.

INTERNATIONAL COMPETITIVENESS

Next is the question of international competitiveness. In our view, the UK copyright framework does not need further exceptions or limitations, as any uses required for AI training can – and should – be licensed. However, the UK has not kept up with developments adopted elsewhere in the world, which

provide fair remuneration to artists. Other countries have adopted efficient ways to remunerate creators when multiple works are used at high capacity, which has enabled artists to be paid for digital uses of their work. The UK has historically rejected blanket licensing schemes and levies that would fairly pay artists, yet other countries have used these schemes successfully and are looking to apply them in the context of AI. DACS calls on the Government to implement legislative mechanisms that will give rise to fair payment for the use of artists' work by AI.

INCENTIVE

Finally, we must incentivise human creativity through fair pay and skills training. Human creativity is fundamental to our society. Artists and other creators produce work that challenges our thinking, educates and entertains us, and improves wellbeing – and, of course, AI-generated works are based on human creations. Yet visual artists are often low-paid. They rely on copyright royalties to invest in their practice for the benefit of the UK's creative industries, and society at large. The most recent available data calculated the median pay for an artist at £12,500 a year[2], and over 70% of artists work as freelancers[3] with little to no social security. Many artists are concerned that AI could replace them in the workplace, reduce opportunities, and drive down their pay further, while many artists feel left behind in building AI into their practice. The UK Government must improve pay and work for artists and incentivise training in AI for all ages.

The significant response to DACS' survey demonstrates the keen interest that artists and their representatives are taking in the development of AI technology, their excitement and concerns about what the future will bring, and their desire to make their voices heard on the subject. Respondents have made clear that their work and livelihoods are under threat, especially in certain sectors like graphics, photography and illustration, where clients are already choosing AI-generated outputs over human work. The key issue that underpins generative AI is how it was trained in the first place. Generative AI models are not capable of original thought – their outputs are derived from the works that artists themselves have made, laboured over and made available to be seen and enjoyed. Artists overwhelmingly did not consent to this, nor are they being paid for it.

It is wrong to suggest that artists cannot live with AI. They can, but there has to be fairness. Artists know what a fair and equitable AI model would look like: one in which there is transparency over what artistic works are used for training; in which artists can consent to their works being used and can

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[2]Livelihoods of Visual Artists: 2016 Data Report, published 14 December 2018. Research conducted by TBR and funded by Arts Council England.
[3]Ibid.

meaningfully prevent uses; and in which they are fairly paid. Artists see receiving copyright royalties through a licensing mechanism from DACS as a step in the right direction.

The UK Government would like to incentivise AI companies to build their products in Britain, but incentives for one industry must not come at a detriment to another highly valuable industry: the creative sector brings £126 billion a year[4] to the economy and provides jobs to 2.4 million people[5]. Ultimately, no matter how advanced generative AI becomes, artists want the Government to ensure that AI technologies respect their rights and pay fair licensing fees for using their work.

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[4]Autumn Statement November 2023, p. 73.
[5]'Creative Industries Employment 14% Above Pre-Pandemic Level', Creative Industries Council, 27 September 2023.