

Building Sustainable Data Ecosystems for Generative AI: Policy Considerations Beyond Copyright-Only Frameworks

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The Current Regulatory Landscape

Current UK and EU policy discussions on copyright and generative AI concentrate on two mechanisms: copyright exceptions for **text and data mining (TDM)** with a reservation mechanism (opt-out) for rightsholders when the purpose is commercial, and **transparency requirements** concerning data used for training and testing AI systems (the EU AI Act's mandatory public summary for general-purpose AI models being the most developed example). The EU's DSM Directive is approaching its five-year review in June 2026, while the UK government is preparing its economic impact assessment on copyright and AI due March 2026. Even if more carefully designed copyright exceptions will be put in place, a fundamental question remains: whether focusing primarily on copyright provides an adequate framework for addressing the broader impacts of generative AI on creative sectors and the data ecosystem. This question was explored at the 'Building Sustainable Data Ecosystems for Generative AI: Beyond Legal Frameworks' workshop hosted by the Centre for Data Futures and King's Information and Intellectual Property Hub at The Dickson Poon School of Law, King's College London on 22 October 2025. This Policy Brief emerges from that workshop.

Why Framing Matters: A Sustainability Perspective

Approaching the issues faced by the creative sectors from the perspective of its long-term sustainability reveals considerations that legal or economic frameworks may obscure. Just as water law reforms worldwide have moved from property-centred to permissions-centred systems to address ecosystem-wide externalities, data governance requires attention to systemic effects and structural elements that individual rights frameworks struggle to capture. Three interrelated concerns are especially central to this perspective.

1. Culture and Creativity are Social Goods: Beyond Economic Impact

Current debates tend to frame the impact of TDM exceptions in either legal terms (copyright infringement versus accepted use) or economic terms (licensing revenues, market displacement). Neither adequately captures what is at stake for creativity and culture as social goods.

Culture and creativity operate through complex intertwined processes of creation, access, learning, and building upon existing content (not all of which is protected by copyright). This cycle has historically been sustained by reciprocity expectations, including online: creators share content with reasonable expectations about how it will be used, and the public gains access with corresponding obligations to respect creators' interests. Generative AI's capacity to ingest vast amounts of 'input' at scale, often without meaningful consent or compensation, disrupts these expectations and affects the incentive structures and capabilities underpinning cultural and creative production. This is important considering how often creators rely on commercial platforms to create and share their content and the lack of alternative digital infrastructures to do so as well as how these sectors and related professionals, especially after Covid-19, may be subject to precarious conditions and pressures due to underfunding.

Policy implication: Impact assessments should consider how the proposed frameworks may affect broader cultural and creative ecosystems, including the diversity of cultural and creative production, the viability of related professions (particularly absent institutional backing), and the sustainability of 'digital commons' that generative AI has extensively drawn upon.

2. Transparency and the Integrity of AI-development and deployment pipelines

Rightsholders suffer a lack of authorization and compensation when their content is used for training, as well as potential privacy and personality rights violations, while little is known about actual datasets used for training, testing and benchmarking AI systems. At the same time, research has also demonstrated that training AI models on AI-generated content leads to degradation in model quality and reliability. Without mechanisms for data disclosure addressed at AI providers, and mechanisms to identify clearly preferences for training and for AI-generated outputs, the quality and experience of content creation as well as platform use at large changes radically. In addition, the development of future AI systems themselves is at risk.

Transparency may therefore serve dual purposes: enabling rightsholders to express their preference about training and, where relevant, to exercise opt-out, as well as promoting further integrity for data training landscapes and AI development practices. The EU AI Act's training data summary template for general purpose AI models providers represents some progress on the latter front, but significant gaps remain in addressing AI-outputs, which are only partially covered by art. 50 of the EU AI Act.

Policy implication: The UK should consider transparency requirements along all the AI-development and deployment pipelines, and beyond training data disclosures, to include possible labelling obligations of AI-generated outputs. International coordination will be essential given the cross-border nature of AI development and deployment and content circulation.

3. Collective Representation and Power Imbalances

Individual opt-out mechanisms, however well-designed technically, cannot adequately address the structural power imbalances between individual creators (or even large rights-holding organisations) and major AI developers. The practical barriers are substantial:

identifying all instances when works are online or have been used, navigating varied opt-out mechanisms across websites and systems, and bearing the costs of enforcement all fall on rightsholders.

Our workshop discussions repeatedly identified collective bargaining as an approach with high transformative potential. Such collective mechanisms empower creators in negotiations with AI companies on the one hand, while on the other they also establish the participatory governance structures needed for advancing technologies towards societal benefit.

Policy implication: Government has a role in facilitating infrastructures for collective representation. This might include supporting the development of sector-specific bargaining mechanisms, piloting data trust or cooperative models in specific sectors, providing legal clarity on data rights and collective negotiation of the same, as well as ensuring that creators without institutional representation or from less established practices also have meaningful access to collective voice.

Recommendations

- 1. Adopt ecosystem-wide impact assessment criteria** that go beyond direct economic effects to consider impacts on cultural diversity, cultural creative livelihoods, and the sustainability of digital commons.
- 2. Develop transparency standards** along the AI-development and deployment pipelines and especially for AI outputs, working towards international coordination to prevent regulatory arbitrage and protect data ecosystem integrity.
- 3. Facilitate infrastructures for collective representation** through pilot programmes, legal clarifications, and mechanisms for ensuring individual creators can participate meaningfully.
- 4. Position the UK as a leader in socially sustainable AI governance** rather than engaging in regulatory competition focused primarily on TDM exception breadth. The sustainability of data ecosystems is a shared challenge requiring coordinated responses.

Conclusion

Copyright reform is necessary but insufficient. The challenges posed by generative AI to creative sectors cannot be adequately addressed through copyright exceptions and opt-out mechanisms alone. A sustainability perspective reveals the need for complementary approaches: ecosystem-wide impact assessment, robust transparency standards, and infrastructure for collective representation. The UK has an opportunity to pioneer socially sustainable governance frameworks that protect both innovation and the creative ecosystem on which it depends.