

Submission
No 60

INQUIRY INTO ARTS AND MUSIC EDUCATION AND TRAINING IN NEW SOUTH WALES

Organisation: Australian Writers' Guild (AWG) and AWG Authorship
Collecting Society

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Australian Writers' Guild

Australian Writers' Guild Authorship Collecting Society

Parliament of New South Wales

Joint Select Committee on Arts and Music Education and Training in NSW

Inquiry into arts and music education and training in New South Wales

29 July 2024

We acknowledge we live and work on Aboriginal land. We pay our respects to Elders past and present. We thank them for their custodianship of land and waterways, stories, and song, and pay our respects to the oldest storytelling civilisation in the world.

WHO WE ARE

The Australian Writers' Guild (**AWG**) represents Australia's performance writers: 2500 playwrights, screenwriters for film and television, showrunners, podcasters, comedians, game narrative designers, dramaturgs, librettists, and audio writers nationally. Established by writers for writers, the AWG is a democratic organisation run by its members, who each year elect a National Executive Council and State Branch Committees. Our members work together to represent their fellow writers across the industry in a number of committees such as the Theatre, Television and Games committees to negotiate for fair pay and conditions, advocate to government, and serve members' professional needs.

The Australian Writers' Guild Authorship Collecting Society (**AWGACS**) is a not-for-profit collecting society for screenplay authors. With more than 2,000 members and 32 partnerships with overseas collective management organisations, AWGACS has collected more than \$25 million in secondary royalties and distributed the monies owed to screenwriters from Australia, New Zealand and around the world. AWGACS continuously advocates for the rights of authors to ensure they are fairly remunerated for the secondary exploitation of their works.

EXECUTIVE SUMMARY

Artificial intelligence (AI) technology is an existential threat arts education, and the arts sector as a whole, in NSW. It is a threat to audiences and the communities we build. AI is 'trained' by scraping from work or works that have come before, most often without consent, acknowledgement, or payment to the original artists. The unregulated use of AI by corporate content producers, including the major international studios and major video game publishers, and, more recently, local production companies, represents a threat to Australian creative work.

We had the opportunity to give evidence at the Inquiry into Artificial Intelligence in NSW. Like many other industry organisations across screen, literature, visual arts and music we expressed grave concerns about the risks of 'generative' AI platforms, products and services present to the livelihoods of Australian creative workers and their audiences.

We predicted that, if AI were to remain unregulated, industry homogenisation, contraction, and a reduction of the economic contribution of the creative sector in NSW would follow. Livelihoods would be at risk in the sector if AI were left unregulated and unchecked and that we would see a devastating erosion of the skill base of Australian creatives.

AI is an ongoing threat to the viability of employment in our sector. Entry-level jobs will be the first to go, making it more difficult than it already is for an emerging practitioner to earn their first writing credit, or participate in their first writer's room. We will see a generation of people step away from creative careers – already known to be financially insecure – or from an arts education due to the genuine risk that they will be 'replaced' by AI in coming years.

To that end, we must ensure that wherever we're using AI in our industry, it supports the creative work rather than supplants it.

Claire Pullen

Group CEO

AWG & AWGACS

1. The impact of AI technology on emerging arts practitioners

Generative AI technology is already being used by large game studios, as well as art departments in the screen sector as a way to quickly generate visual content that would ordinarily be a task given to an entry-level practitioner.¹ These trends foreshadow how the creative industries as a whole will be affected by unregulated generative AI. Creatives who have just completed their formal arts education will have very few opportunities to gain a foothold in the small local industry. Even prior to the advent of AI, it is an intensely competitive sector, with few entry points.

One such entry point (for example) for screenwriters is the position of a ‘notetaker’ in a writers’ room (i.e. groups of writers that come together to develop a television series or workshop an episode script). Note-taking is an entry-level (paid) job that allows a new writer to contribute to a show and learn about the creative process from experienced writers. From here, notetakers may progress through a number of roles including script coordinator, staff writer, story or script editor, and eventually are given the chance to write their own script. All the steps prior are training for the next, and are the process by which show runners and senior writers hone their craft to produce the stories we love.

As one writer said:

“As a mid-career writer, I’ve been plugging away in the wings, refining my work, and waiting to see if luck will turn my way. Screenwriting is my vocation, my livelihood, and my passion. In the ten years or so since I entered the industry, writing has been my full-time job. I have navigated this precarious industry carefully and at considerable personal sacrifice.”

If writers’ rooms are recorded and automated, it seems likely note-taking will be the first role to be cut, thus eliminating one of the few possible entry-points into the industry that new writers still have. This phenomenon will repeat many times across the screen and interactive sectors – affecting emerging writers and narrative designers, directors, actors, designers, composers, cinematographers, screen and sound editors – and the professional development of the next generation of Australian creative talent will be stunted as AI becomes more and more commonplace.

Generative AI could reduce the screenwriter’s job to simply reading and reviewing drafts, generated from a derivative outputting of other people’s work. This might work for now while we have an established stable of experienced writers who have spent a career honing their craft, but if AI is permitted to take over the writers’ room and that generation of writers is displaced, we will not have enough fresh talent to replace them. It is for this reason AI was such a critical component of the Writers’ Guild of America

¹ See, eg, the use of AI for props in screen productions, Adrian Horton, ‘Where Do We Draw the Line on Using AI in TV and Film?’, *The Guardian* (online, 20 April 2024).

strike action last year. The impact of generative AI on the creative industries is widespread and goes beyond its effect on writers.

Generative AI technology, left unfettered, will be used to replace and exploit creative workers and produce ever-more derivative content that exploits consumers. The long-term impact of this will be felt in terms of our cultural sovereignty, and our economy. Why film on location if you can artificially generate ‘Sydney’ or ‘the Outback’ or a ‘quintessential Aussie beachside village’? Why employ Aussie actors when you can generate images instead, and not pay a worker? There are unlikely to be high-quality competitive offerings if everyone has access to similar technology and uses it in a race to the bottom. Why employ a composer, or an editor, or a dramaturg, when you can copy someone else’s work, feed it into a program that works anywhere in the world, and sell that output?

Earlier this year, the AWG surveyed its members regarding the use of artificial intelligence (AI) technology in the creative sector. The results indicated a broad rejection of the use of AI technology in our industry and members great concerns about the negative impact the wholesale adoption of AI technology would have on our industry. Around 75% of respondents agreed that the use of AI in our industry disempowered writers. The vast majority of respondents believed that their livelihoods as creative workers would be negatively impacted by AI technology (94%) and a similar number believed that the quality of the screen and theatre projects Australian writers worked on would be reduced (95%). These responses indicate that writers want to maintain sovereignty and custodianship over the intellectual property they create. They want to work in a sustainable industry that continues to rely on human creativity and employ human workers. High quality creative work needs human insight and the application of creative skills developed over a lifetime.

2. The role of government funding agencies

In previous submissions, we have pointed out that Large Language Models (LLMs) have access to enormous datasets, comprised of both text and media, that are publicly and “freely” (and potentially unlawfully) available. It is on these datasets that AI can be trained.² Generative AI ‘scrapes’, ‘mines’, ‘listens to’, ‘trains on’, or to use another word, *copies*, existing artistic work either used without the consent of the authors or which has been pirated and illegally published online. In both these cases, an unauthorised reproduction of copyrighted work has occurred and therefore an author’s copyright has been infringed.

²Websites like Kaggle and Convokit publish datasets for precisely this purpose. See for example:

- Kaggle’s “Movie scripts corpus”: <https://www.kaggle.com/datasets/gufukuro/movie-scripts-corpus>
- Kaggle’s “Movies dataset”: <https://www.kaggle.com/datasets/rounakbanik/the-movies-dataset>
- Convokit’s “Movie dialog corpus”: <https://convokit.cornell.edu/documentation/movie.html>

Widespread copyright infringement of pirated literary work (noting that ‘literary work’ encompasses Part III Literary Works and includes screenplays and plays) has already taken place. Last year, the Books3 database was exposed as a database used by companies such as Meta, EleutherAI and Bloomberg to train generative AI models.³ The dataset contained approximately 183,000 pirated books, plays and other literary works used to train generative AI systems without the permission of their authors which included many Australian writers and AWG members. The US Authors Guild filed a class action for copyright infringement against ChatGPT creator OpenAI over its use of pirated book datasets. There are also author class action suits pending against Meta and Google. In proceedings overseas, AI companies have conceded that their models rely on the unauthorised and unremunerated use of copyrighted work, with OpenAI stating it would be ‘impossible to train today’s leading AI models without using copyrighted materials’.⁴

Questions of copyright must be addressed at a federal level but the fact that generative AI systems only *work* by infringing on authors’ copyright should be a concern for state government too. We believe that government funding agencies like Screen NSW are exposed to secondary liability if they fund creative projects that utilise generative AI which has been trained on copyrighted material without permission from the original authors, or projects that are in breach of artists’ moral rights.

We argue that these problems can be avoided if the funding agencies choose to deny funding to any creative projects that use AI technology as a replacement (in whole or in part) for work that has traditionally been done by a creative worker at least until the copyright concerns raised in this submission are addressed at a legislative level. Any person or company applying for government funding must, throughout the grants process, have obligations to actively disclose any use of AI technology. As the Committee would be aware, the majority of businesses that employ Australian creatives are at least partially reliant on state and federal government funding and tax concessions. It is a key enforcement tool not available in many workplaces.

Screen NSW Terms of Trade state at clause 1.2 that:

“Screen NSW also expects all recipients of funding support to act fairly and reasonably in relation to third parties involved in the funded project. Fairness and reasonableness include:

- *Paying at least award minimum rates or, where applicable, any minimum agreed between the relevant guilds, for all work performed by third parties on their project, including Key Creatives, cast and crew;*

³ Alex Reisner, ‘Revealed: The Authors Whose Pirated Books are Powering Generative AI’, *The Atlantic* (online, 19 August 2023).

⁴ Dan Milmo, ‘Impossible to Create AI Tools Like ChatGPT Without Copyrighted Material, OpenAI Says’, *The Guardian* (online, 9 January 2024).

- *Respecting the rights of all relevant persons, whether those rights be copyright or other intellectual property rights, moral rights or Indigenous Cultural and Intellectual Property rights.”*

Screen NSW’s terms of trade clearly intend to ensure that funding recipients respect the intellectual property rights of third parties and ensure that creative workers are fairly remunerated for the exploitation of their intellectual property. Any funding recipient that uses AI as a replacement (in whole or in part) for work that has traditionally been done by a creative worker necessarily contradicts these terms of trade.