THE MUSIC MANAGER'S

INTERIM

GUIDE TO AI

DISSECTING THE DIGITAL DOLLAR

themmf.net/digitaldollar

This is a guide for music managers on how artificial intelligence is impacting on the music industry, helping them to navigate and understand the opportunities and challenges posed by AI, and offering guidance on how they might advise their clients.

It looks at how the music community is using – and will use – AI tools, and also considers some of the potential threats, alongside how music-makers can safeguard their rights as ever more sophisticated AI models are developed and employed.

We have called it an 'interim guide' because both the technology and the regulatory framework are evolving so fast it is going to need regular updating. Please check back on the MMF website to ensure you are reading the most recent version.

Section One: What is AI?

Artificial intelligence – while not new – has clearly become a much bigger talking point in the last year. Partly because of developments in the evolution of AI technologies. And partly because governments and law-makers around the world have been giving more consideration as to how they might regulate different AI models and platforms.

AI is also starting to have a much bigger impact on the music industry, with AI tools increasingly being used as part of the music-making process, and to assist with music marketing and other music business activities.

Meanwhile, rights-holders like record labels and music publishers are starting to enter into deals with AI companies.

In terms of defining 'artificial intelligence', a term coined by a Stanford University professor in 1955, here is what Stanford's Institute For Human-Centered AI has to say…

"Intelligence might be defined as the ability to learn and perform suitable techniques to solve problems and achieve goals, appropriate to the context in an uncertain, ever-varying world … a fully pre-programmed factory robot is flexible, accurate and consistent, but not intelligent. Much research has humans program machines to behave in a clever way, like playing chess, but, today, we emphasise machines that can learn, at least somewhat like human beings do".

Depending on how you define artificial intelligence, certain technologies commonly referred to as AI may or may not fit that definition. Some technologies – while employing clever algorithms and a certain level of machine learning – may not be truly AI.

But whatever definitions we employ, what is certain is that AI technologies will be able to perform ever more sophisticated tasks that involve something very similar to human intelligence, and that this will have a big impact on the economy and society at large, way beyond the music industry.

It is anticipated that certain jobs – including creative and administrative roles – could ultimately be replaced by AI. And there are also concerns about how AI models might be used, and the impact that could have on privacy, security and democracy.

At the same time, AI creates significant economic, commercial and creative opportunities, though there is general agreement that competent regulation will be required to ensure that the positives outweigh the negatives in the short and longer term.

GENERATIVE AI

In the context of the music industry – and the wider creative industries – of particular interest is generative AI, a specific kind of artificial intelligence. This term refers to AI models that are able to generate original content, whether that is text, image, audio or video, and, of course, music

Again, generative AI is not particularly new, but it has become a much bigger talking point this year because certain generative AI models have become a lot more sophisticated, especially in the text and image domain.

Meanwhile, a number of high-profile generative AI platforms have become widely and easily accessible, meaning many more people are now interacting with generative AI models and seeing what they can achieve.
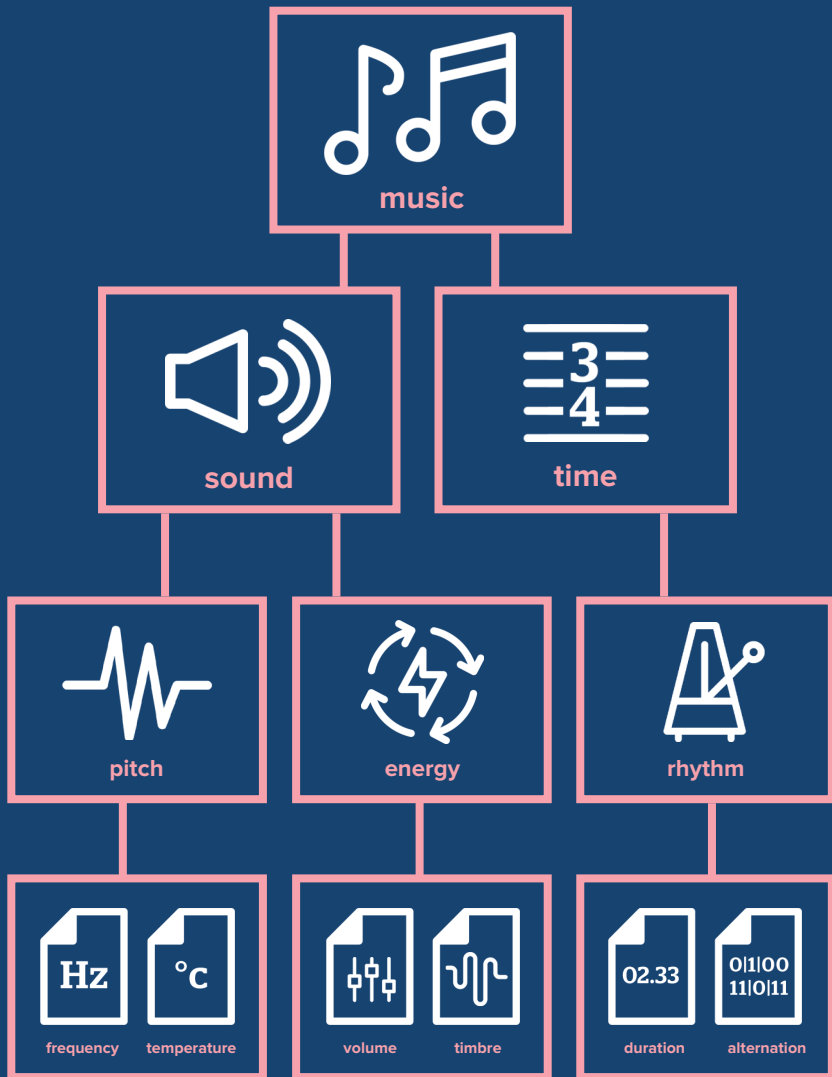
As with artificial intelligence at large, how you choose to define generative AI will have an impact on what tools and platforms fall under that banner. There may be some tools and platforms commonly referred to as generative AI which don't strictly meet the definition.

In terms of generative AI and music, it is also worth distinguishing between...

■ Those AI tools that can assist human beings in the music-making process.

■ Those AI tools – or similar – that generate music by stitching together pre-existing musical segments or stems based on criteria set by a user.

■ Those AI tools – or similar – which help people to generate tracks that imitate the style, sound or voice of specific artists.

■ Those AI models that actually compose and produce original music.

As of summer 2023, the latter group of AI models – which would include Meta's MusicGen and Google's Music LM – are still quite restricted in terms of the length and quality of the music they can generate.

It's not yet clear how long it will take to overcome these restrictions. Though given the speed with which image generation AI has evolved in the last year, it could happen relatively quickly.

music

sound

time

pitch

energy

rhythm

frequency temperature

volume timbre

duration alternation

Generating music with AI often involves using machine learning algorithms to analyse large datasets of existing music — the algorithm examines patterns and structures in the music, breaking down each track into its constituent parts, and using this information to generate new music.

Section Two: Using AI

There are many ways in which the music industry is already employing AI – including generative AI – as part of the music-making process; to help generate and distribute marketing content; to better manage rights and royalties; to handle basic legal and admin tasks; and to more effectively run music businesses.

And artists and managers operating at all levels are now starting to make use of AI tools. That includes…

Songwriting and recording

Music-makers are increasingly using generative AI tools – or similar – to assist in the music-making process, either to help with ideas, or to generate some elements of a new work.

Production and mastering

AI tools can be used to help with the production process, and especially the mastering process, when creating new recordings. There is much debate regarding the ability of AI to master recordings compared to hiring a mastering engineer, although where independent artists are working on very tight budgets, AI tools can be very helpful.

Marketing and visual content

Music-makers now need to generate a huge amount of content around their releases and marketing campaigns, and to keep fans engaged on social media platforms, including written content, as well as visuals and video. An assortment of AI tools are now available to help with this process, sometimes generating content from scratch, sometimes reformatting and repurposing content for different channels and uses.

Data management

AI is increasingly being used in the music industry to help with data management, both the rights and metadata that is a key part of music distribution and rights and royalty management, and the huge amount of consumption and fan data that flows back into the music industry from digital platforms. AI can be used to identify issues in rights data that are impacting on payments and can also help the industry identify learnings from fan data.

Document creation

All companies, including music companies, are starting to use AI to generate first drafts of business documents, including marketing materials, but also logistical and even legal documents. AI can also be used to edit down or pull key information out of documents, or to compare the content of different documents. Although some generative AI tools are very impressive, you should always be aware of the limitations and generally use these tools to create initial drafts and always read

through carefully before publishing or sending on.

Translation

AI tools that translate copy from one language to another are becoming ever more sophisticated. There are various potential uses for this in music. That might include automatically creating versions of tracks in other languages, or allowing fans to automatically access social media posts and other marketing content in their language of choice. Again you should probably check automated translations before publication to make sure there are no glaring translation errors which could embarrass your client.

Initial research and ideas

Generative AI can also be used to help with research and ideas as part of projects, including ideas for marketing campaigns and general business development.

AI TOOLS TO CONSIDER

We surveyed a few music managers and marketeers about the AI tools they are currently using, and here are ten that they suggested that managers might want to check out...

ChatGPT: A lot of managers and marketers have been using ChatGPT to generate initial drafts of marketing or other copy. It has many other uses too, especially if you make use of ChatGPT plugins.

Bard: The generative AI tool from Google that can also be used to generate text from prompts.

Grammarly: A popular tool that uses an AI-enabled algorithm to review the spelling, grammar, punctuation and clarity of text.

Otter.ai: An AI-powered transcription tool, which is very good at generating transcriptions of recordings of meetings and conversations, particularly where there are multiple speakers.

DreamStudio from Stability AI: This is good and straight forward prompt-based image generation tool. After some practice, you can generate great images with very little effort.

Midjourney: Another popular AI tool for generating images from user-prompts.

Kaiber: This is a creative platform that uses AI to generate videos and images based on user-prompts.

Gen 1 / Gen 2 by Runway: More useful AI tools for video creation.

Voice-Swap: An AI tool designed by DJ Fresh and Nico Pellerin that can be used to transform vocals so that they sound like one of a number of featured artists who have partnered with the company.

Elevenlabs: This a great tool for AI-generated voice and voice cloning.

These are, of course, just a small number of the AI tools now available. MMF will be compiling and maintaining a fuller list, so please do let us know about any that you have found useful. And do also read our guidance on things to consider before using AI tools on page 17.

Section Three: Licensing AI

TRAINING GENERATIVE AI

Music-making generative AI is 'trained' by being exposed to human-created music. This may be music specifically created for training purposes, or from production music libraries, or commercially released recordings and songs.

Where a tech company trains a generative AI model with existing music owned by third parties, it will make a copy of that music onto its servers. This poses a number of important copyright questions for the whole music community.

Does the company need a licence to make those copies from the relevant copyright owners and, assuming it does, how will that licence work and how will any income generated be shared between the different stakeholders in the music industry?

RIGHTS-HOLDER CONSENT

Does an AI company need to secure consent and negotiate a licence with whoever owns the copyright in the music used to train its model? The music industry says a firm "yes".

However, some AI companies have argued that the training of AI models is covered by a copyright exception, usually an exception relating to data mining or possibly the more generic concept in US law of 'fair use'.

Each copyright system does provide a number of copyright exceptions,

scenarios where people can make use of copyright protected works without securing a licence.

That commonly includes things like private copying, critical analysis, parody and so on.

In most countries there are no exceptions that seem to apply to the training of a commercial AI model, although that is possibly still to be tested in court, for example regarding fair use in the US.

And some tech companies argue that if there is a relevant exception in just one jurisdiction, providing they base their servers there, they do not require a licence.

The music industry – and other copyright industries – are now lobbying law-makers in many countries seeking clarity regarding the copyright obligations of AI companies.

If it does transpire that the training of AI can be undertaken without licence in a small number of jurisdictions, the copyright industries will lobby policy-makers in all other countries to interpret or amend copyright law in a way that counters that fact.

That would mean that models trained with unlicensed works relying on a copyright exception could not be commercially exploited in countries where no such exception exists.

In practical terms, that would mean

that platforms using those unlicensed AI models would have to be geo-blocked in those countries. Internet service providers could also be asked or forced to block access to these services and search engines to de-list them.

TRANSPARENCY + LABELLING

Assuming it is agreed that the training of generative AI with copyright protected works requires a licence, how do copyright owners know if their works have been used?

In theory it should be possible for an AI company to keep a detailed record of every work used to train any one AI model, and to identify which specific works provided learning for and/or influence over any subsequently generated content.

Whether this is happening is another matter. Some AI companies may not store this data, either for efficiency reasons or to avoid future liabilities. Some AI models will also build upon learnings from other AI models, and while in theory a complete record of all works used for training should still be possible, data is more likely to be lost in that scenario.

The music industry – and other copyright industries – are also lobbying for AI companies to have wide-ranging transparency obligations in law. There would be two elements to this:

First, that content generated using generative AI should be clearly labelled. This would allow consumers to distinguish AI-generated works from human-created works, and would also allow rights-holders to identify which works have been generated by any one AI model.

Second, each AI company should clearly declare what material was used to train its models, with an obligation to keep and make available a complete record of all works that were used as part of the training process.

LABEL AND PUBLISHER-LED DEAL-MAKING

Certain players in the music industry – ie labels, distributors and publishers, and especially the major music rights companies – are already negotiating deals with certain AI companies, which will allow those AI firms to train their models using some or all of the existing music owned or controlled by the music businesses.

It is not yet clear how those deals will work. Obviously, the nature of each deal will depend on how an AI company plans to specifically make use of the existing music, and how their AI tools will subsequently be employed and monetised.

As with the licensing deals that have been negotiated in the streaming market, music-makers can be at a disadvantage here. They and their managers are one step removed from the deal-making process, deals being negotiated by rights-holders and platforms.

And they are not usually allowed to see the specific terms of any

one deal, making it hard for them to evaluate if it is broadly fair and if payments are correct.

However, there are a number of questions music-makers and their managers might want to ask any labels, distributors or publishers that they work with.

■ Will rights-holders license their full catalogues – or large portions of their catalogues – for the training of generative AI, or will they work with AI companies on an artist-by-artist, writer-by-writer, work-by-work basis?

■ Will deals involve an upfront and/or ongoing training fee, and/or a share of any revenue generated by the AI platform?

■ How will a rights-holder allocate income to specific recordings or songs – will an AI platform be able and/or willing to provide data to assist in this process? If not, how will money be allocated so that income can be shared with music-makers?

■ What share of income allocated to any one recording or song will be paid through to the artist or songwriter – ie what royalty rate will be applied?

THE ROLE OF COLLECTING SOCIETIES

It is not yet clear what role, if any, the music industry's collecting societies will play.

With UK repertoire, PRS would have to be involved if, at any point in the process, the 'performing rights' of the song copyright were exploited. PPL would have to be involved if there was a case for arguing that a performer's right to equitable remuneration applied.

However, the collecting societies may have a wider role to play than this, depending on the technicalities of how each AI model works and the complexities noted above around identifying how any income should be allocated to any one recording or song.

If the music industry is sharing in any income associated with each new track generated by AI, how is that income allocated to individual works and rights-holders?

How easy is it to identify which existing works had a generic or direct influence on the new work? And how is revenue sharing managed if thousands or millions of existing tracks had an influence?

One way to address these complexities is to have a blanket licensing system – or even a levy system similar to the private copy levy that exists in some countries – which is managed by the collecting societies, with monies distributed directly to writers and performers according to rules set by each society.

There are pros and cons to this approach – and labels and publishers are likely to oppose going this route – but it may be something music-makers want to consider.

MUSIC-MAKER CONSENT

It is common in the music industry for artists and songwriters to assign or license the rights in their recordings or songs to business partners.

Under conventional record and publishing deals, the label or publisher owns the copyrights in the music (with songs, technically the publisher only owns those elements of the copyright not assigned by the writer to their collecting society).

Even where artists and writers have retained ownership of their rights, if they have entered into distribution or administration agreements with a label, distributor or publisher, they may have granted their business partner wide-ranging control over their music.

Where this is the case, the label, distributor or publisher might be empowered to license any music that it controls to an AI company without seeking the specific consent of the music-maker, providing they pay any royalties the music-maker is due under contract.

However, most music-makers and their managers would argue that – given the novelty and potential impact of generative AI – specific consent should be sought from each individual music-maker before their music is used to train an AI model.

The music industry at large has talked a lot about the need for AI companies to seek consent before exploiting existing works as part of the training process. But do labels, distributors and publishers intend to seek the specific consent of music-makers?

Some independent music companies have explicitly stated that they will. Others have implied that they will, including Universal Music when announcing its involvement in the YouTube Music AI Incubator in August 2023. But it remains unclear what the general industry position is on this.

However – oblivious of what position any one label, distributor or publisher might take – is there a legal requirement for music-maker consent to be sought?

Contractual Veto rights

Where artists and songwriters assign the copyrights in their works to business partners, such as labels and publishers, they will usually retain some contractual rights.

This often includes the right to be consulted about and/or veto certain uses of their music, such as synchronisation, samples, or adaptations that will result in the creation of a 'derivative work'.

While these rights will vary from contract to contract – and conventions are different for record deals and publishing deals – are commonly included consultation or veto rights relevant to the use of music by AI companies?

Moral rights

The moral rights provided for creators by copyright law vary greatly from country to country, but usually include the right to attribution and the right to

object to the derogatory treatment of any one work.

Are any moral rights being impacted upon by the training of generative AI and, if so, does that mean the specific consent of the creator is required?

It is worth noting that moral rights are relatively weak under UK law and can be waived in record and publishing contracts.

Performer rights

Copyright law provides performers with certain rights over recordings on which they appear even when they are not the copyright owner.

The performer's approval is required to make a recording of their performance and to exploit the resulting copyright. Performers are also due equitable remuneration via the collective licensing system whenever the performance or communication controls of the sound recording copyright are exploited.

Have performers granted the necessary approvals to train an AI with a recording of their performance and could any uses of AI necessitate the payment of equitable remuneration?

Under the current system, the necessary approvals have probably been provided under most industry standard record contracts and session musician agreements. However, copyright law could be amended to grant performers specific approval or remuneration rights in this domain.

Publicity rights

Publicity rights are a legal concept that allow individuals to control the commercial use of their image or personality – indeed they are sometimes called image or personality rights.

Quite how these work differs greatly around the world, and – as these rights have become more commercialised in recent decades – different sectors within the wider entertainment and sports industries have developed different conventions for how they are managed and licensed.

In football, where the publicity rights of players are routinely exploited by things like video games and brand partnerships, consideration has been given to how a player's deal with a club handles these rights. Players might establish a separate company to control their publicity rights, and their club would enter into a separate deal with that company if they wanted to pursue commercial opportunities that exploit those rights.

In music, artists would usually manage their publicity rights in partnership with management.

Under a basic record deal, a label would have permission to exploit the artist's image in order to market the records it is releasing, but would not usually be involved in any other commercialisation of these rights.

However, some labels have started to seek wider involvement in an artist's publicity rights, usually as a result

of new digital opportunities, such as an artist having a representation on gaming platforms like Fortnite or Roblox.

In the context of generative AI, publicity rights are most relevant when an AI model imitates the voice of a specific artist. But do publicity rights come into play in other uses of generative AI?

And how will publicity rights be managed and licensed in this domain, and to what extent will an artist's business partners want a greater involvement in these rights?

It is important to note that in the UK publicity rights do not currently exist in law.

The tort of passing off can sometimes be employed to stop people commercially exploiting an artist's image or personality, though that only usually applies when the entity doing the exploiting is misleading the consumer into thinking they have the endorsement of the artist.

Given publicity rights could become important in the context of generative AI – and other areas like the metaverse – the concept probably should be introduced in UK law.

Data protection rights
Data protection rights – and/or other privacy rights – may well give an individual control over the storage, distribution and exploitation of recordings of their voice or image.

Therefore, arguably an artist would need to provide specific consent if a recording of their voice is stored, distributed or exploited, for example by an AI company.

A label would likely infer that that consent has been provided through an artist's record deal when it comes to the standard storage and distribution of recordings. However, it's a stretch to assume such an inference in the context of using an artist's voice to train an AI model.

Why this matters
The legal requirement for specific music-maker consent – if it exists – is important for a number of reasons...

■ For the industry at large, it could provide additional control over recordings and songs even if AI companies are able to find and exploit copyright exceptions for some of their uses of music.

■ It would allow music-makers who have assigned the copyright in their music to business partners to still opt-out of AI licensing deals on a case-by-case basis, and/or to negotiate specific terms with their label, distributor or publisher regarding how income from AI deals will be shared.

■ Some of these rights – for example publicity rights – may also allow music-makers to negotiate their own deals directly with AI companies alongside any licensing deals struck by labels and publishers, providing new revenue opportunities for the artist.

Section Four: Campaigns and consultations on music and AI

There a number of forums where the questions and issues raised above are currently being discussed and considered, some instigated by governments and law-makers, some by the music industry, and some by organisations in other creative sectors. They include...

GOVERNMENT-LED

EU AI Act: The European Union is in the final stages of agreeing new regulations for artificial intelligence that will go into effect across all member states. Although the act is not specifically focused on generative AI, it does have some measures regulating it, including on transparency and labelling.

IPO AI Working Group: The UK's Intellectual Property Office has convened a working group of AI companies and organisations from across the creator and copyright sectors to inform the UK government's position on AI and copyright. UK Music and the Council Of Music Makers sit on this group and MMF is involved with the debate.

CMS Select Committee Inquiry: The Culture, Media & Sport Select Committee in the UK Parliament has been reviewing the impact of new technologies on the creative sectors, including AI. It published a report in August 2023.

Congressional Hearings: Committees in US Congress have staged a number of hearings on AI, including sessions specifically focused on AI and copyright.

US Copyright Office Consultation: The US Copyright Office has opened a consultation seeking input on various copyright issues and questions posed by AI.

MUSIC INDUSTRY-LED

The Human Artistry Campaign: is a global campaign bringing together creators and copyright owners from multiple creative disciplines. It was initially spearheaded by the US record industry but has since been embraced globally and by multiple creative sectors.

The UK Music AI Policy Paper: sets out key objectives and concerns about generative AI on behalf of various UK music industry trade organisations, including those that represent labels, publishers, artists, musicians, songwriters, studio producers and managers.

The Council Of Music Makers AI Agenda: the Featured Artists Coalition, Musicians' Union, Ivors

Academy, Music Producers Guild and Music Managers Forum – which are all members of UK Music – have also identified and communicated a number of questions for labels and publishers to ensure that music-makers are fully informed about and properly consulted on generative AI business and licensing models as they are developed.

OTHER CREATIVE SECTORS

Creators' Rights Alliance AI Policy Paper: The UK Creators' Rights Alliance – which brings together organisations representing creators from many different artforms – has published a policy paper on AI.

Like the UK Music policy paper, it sets out key objectives and concerns about generative AI, and calls on the UK government to clarify and, where necessary, extend the copyright and transparency obligations of AI companies.

UK Society Of Authors AI Policy Paper + Practical Guidance: The UK Society Of Authors has published a policy position on AI as well as practical guidance for its members. It recommends that authors include explicit terms in new agreements to the effect that a publisher "may not use, or allow access to, the work in any manner which could help the learning/training of artificial intelligence technologies".

It added that: "You might want to prevent AI technologies being used in connection with the creation or exploitation of your work – for instance, forbidding AI-rendered translation, editing, cover design, indexing, and audio recordings".

The society also recommends that authors should "check the terms and privacy settings of cloud services you use to store or develop your work. Some services by default reserve the right to analyse your text and images for development purposes. While not always explicitly stated, this could include using your work to train AI systems".

US Authors Guild AI Model Contract Clause: In March 2023, the US Authors Guild published a new AI-specific model clause which it recommended be inserted into publishing and distribution agreements within the American books sector. It explicitly states that no consent has been granted for the use of an author's work for the purposes of training AI.

The Guild also advised authors and their agents to check existing agreements for any terms that grant a publisher the right to use their work in relation to the training of AI, or more generally for things like 'internal purposes', 'research' or 'data mining'. Where such terms are in an agreement, it said authors and agents should seek to have them removed.

Equity AI Vision Statement: UK performers union Equity has published an AI Vision Statement which outlines eight principles that it believes the industry should adopt in relation to AI. It includes

a commitment around performer consent.

It said that artists should "have the right to consent (and not consent) when their performance, voice or likeness is recorded, used or reproduced by machine learning systems and equivalent technology. This right cannot be assigned or waived, and applies in perpetuity for past, current and future performances or likenesses".

SAG-AFTRA AI Policy Position: In June 2023, the US performers union set out its position on AI in a letter. It stated that: "The use of performer's voice, likeness or performance to train an artificial intelligence system designed to generate new visual, audio, or audiovisual content is a mandatory subject of bargaining".

"You cannot unilaterally impose terms in individual contracts that purport to grant these rights. We are entitled to bargain over the compensation and terms under which these rights are granted and used".

"It is our position that language in a performer's contract which attempts to acquire the rights noted above are void and unenforceable until terms have been negotiated with SAG-AFTRA. The rights have not been conveyed".

One of the demands in the ongoing SAG-AFTRA strike is that US studios and production companies must provide guarantees about how they intend to use AI and how the rights of performers will be protected.

LITIGATION

In addition to these campaigns and consultations, a number of lawsuits have been filed in multiple countries which will test the copyright obligations of AI companies. To date these have mainly been pursued by the book publishing and photography sectors, with key cases including those filed by various authors against OpenAI's Chat GPT and those filed by Getty Images against image-based generative AI platform StabilityAI.

Section Five: Advice for managers

USING AI

When music-makers and managers are making use of AI tools as part of the music-making process, or to create marketing content, or otherwise, there are a number of things to consider...

Reliability

Although some generative AI tools are already very impressive, they are not without limitations, and these need to be factored in.

For example, if you use generative AI to create marketing copy, you should always see the AI-generated content as a first draft and, when checking that content, be aware that sometimes an AI can generate factually incorrect statements.

So, a certain amount of fact-checking is always advisable.

Granting of training rights

When making use of AI tools, be wary of what rights you are granting the AI company via its terms of service. The AI model is likely being further trained by the prompts you provide when using the tool and any existing content you upload as part of the prompting process.

Make sure you are aware of any rights you are granting to the AI company and – if you are working with content where you are not the copyright owner – that you are in a position to grant those rights.

Copyright liabilities

Remember the ambiguities outlined above regarding the copyright obligations of AI companies and the current lack of transparency regarding what materials have been used to train any one AI model.

There is likely a lot of litigation ahead in this domain and some copyright owners might target the users as well as the owners of allegedly infringing AI tools and platforms. And this may discourage some companies – especially bigger companies and brands – from making use of these AI tools in the short term.

For example, there have been reports that the big marketing agencies are not yet using AI-powered image generation tools for fears of future liabilities, instead waiting for the copyright obligations of those AI tools to be clarified by law-makers or in the courts.

Copyright status of generated works

There has been much debate regarding the copyright status of AI-generated works – ie does AI generated content enjoy copyright protection?

UK copyright law provides ownership rules for 'computer-generated works', which suggests that those works enjoy copyright protection.

However, most copyright systems are silent on this and it is assumed

that AI-generated works do not enjoy copyright protection.

This means if you use generative AI to create – for example – artwork, that artwork may not be protected by copyright, which would limit your ability to monetise the content. Because, if the artwork was considered 'public domain' in copyright terms, anybody could make use of that artwork, including commercially, without getting your permission.

In the US, the Copyright Office has stated that AI-generated works do not enjoy copyright protection but AI-assisted works do. This obviously poses a big question about how much creative input a human being must have when using AI tools for a work to be considered AI-assisted rather than AI-generated.

LICENSING AI – MUSIC-MAKERS LOCKED INTO EXISTING DEALS

Where music-makers are locked into existing record or publishing deals via which a label or publisher owns the copyright in the artist or writer's music, or has wide-ranging control over the music, what should the music-maker and their manager be doing?

■ It is worth reviewing any existing contracts and identifying what specific rights have been granted to each business partner, what exclusions and veto rights are included, and whether that means the business partner can license the music-maker's recordings or songs

to an AI company without getting specific consent.

■ Irrespective of what any one contract says, the MMF advises music-makers and their managers to formally inform all and any business partners that no consent has been granted for the use of each music-maker's music for the training of AI. Even where consent is arguably not required under contract, some of the other rights outlined above may be relevant, and the industry may as yet more widely adopt the position that music-maker consent is always required.

The UK's Council Of Music Makers has published a template letter that music-makers and managers can use to confirm to business partners that consent has not been granted and should not be assumed. That template is on the next page and also available via the CMM website.

LICENSING AI – NEW DEALS

When music-makers are negotiating new deals with labels, distributors or publishers, consideration should be given to the future use of music in the AI domain.

■ Be very careful of granting business partners any rights beyond copyright, for example publicity, image and personality rights. Where labels seek involvement in these rights, be very clear and specific on what that involvement is.

■ Seek specific AI approval rights in contract – so that any use of the

This is a template letter provided by Council Of Music Makers that music-makers and their managers can tailor and send to any labels, distributors and publishers they work with, making it clear that advance permissions must be sought before any of their music is used to train an AI model.

Dear X

I am currently reading about the potential impact of artificial intelligence – and especially generative AI – on the music community and the wider creative industries.

It's good to see that so many UK music companies and organisations are embracing the Human Artistry Campaign. I agree that "copyright protection exists to help incentivise and reward human creativity, skill, labour and judgement", and that "creators and copyright owners must retain exclusive control over determining how their content is used" to ensure "that human creators are paid for their work".

It is important we acknowledge the potential positive impact of AI on the music business, while also stressing that AI companies and their business partners must respect copyright, and other creator and personality rights, and secure consent from music-makers before making use of their music.

For this to occur it is essential that tech companies are fully transparent about how they train and utilise any AI models for music and, in turn, that rights-holders are transparent about licensing deals covering these models and the income generated from them.

For the record, I do not currently consent for any [recordings that I performed on / songs I wrote or co-wrote] (delete as appropriate) to be used to train any AI models. I also consider that the use of my works in the context of the production of any derivative works to be an unauthorised adaptation and an infringement of my moral rights.

I look forward to hearing about any opportunities in the music AI domain that you identify and discussing how we might collaborate on pursuing those opportunities together.

Many thanks
[INSERT NAME]

You can also access this template at councilmusicmakers.org/ai-letter

artist's music in the training of AI requires explicit consent on a project-by-project basis.

■ Seek specific AI transparency obligations in contract – so that the rights-holder is obliged to disclose to the music-maker when their work has been used for AI training or for AI purposes more generally. That includes if the artist's music or image is being uploaded into an AI platform in order to create marketing content.

■ Ensure that any AI transparency obligations extend to the AI companies themselves – so the rights-holder commits in the artist's contract to ensure that transparency obligations are included in any licensing deals with AI companies.

These kinds of deal terms are not yet standard in label, distributor and publishing contracts, but they are starting to be discussed as part of the deal-making process.

Therefore managers and lawyers should always ensure that these things are considered in any deal-making and covered in any new contracts.

MMF has drafted a sample contract term to provide guidance on some of the protections managers might seek to include in new contracts in this domain.

This is intended to simply inform contract negotiations, and managers should consult the artist's lawyer for further guidance.

The sample contract term is as follows: "Explicit artist consent must be secured before any music or other content produced or created under this contract is used or licensed for the training of generative AI models. The artist retains control over their professional name, image, brand, logo, face, likeness, voice, signature and other identification attributes – and any publicity, personality, image or similar rights provided in law. Explicit artist consent must be secured before any of these rights are exploited in connection with any AI model or platform.

As the debate around music and AI is rapidly evolving, MMF will likely update its advice and guidance on a regular basis, so check the MMF website for the latest updates.

Section Six: Next steps

Campaign with the music industry for clarity on rights-holder consent and transparency

Music-makers and their managers should work with the wider music industry – and the wider copyright industries – for example via the Human Artistry Campaign, to ensure that:

■ copyright obligations of AI companies are clarified and that no new copyright exceptions are introduced that can be exploited to circumvent these obligations.

■ clear transparency obligations are applied to generative AI models, so that AI-generated works are clearly labelled, and a detailed record is kept and made available on what works have been used to train any one model.

Campaign within the music industry on music-maker consent and deal transparency

Music-makers and their managers should campaign within the music industry – via organisations like the Council Of Music Makers – in order to seek:

■ A commitment from rights-holders that specific consent should be sought from each music-maker before any music is licensed to and used by AI companies.

■ Clarity on how AI licensing deals will be structured, how monies will be allocated to individual works, and what royalty rates will be applied to AI income.

■ A discussion on the role of collecting societies, including where complexities around licensing and royalty distribution might be best dealt with via a collective licensing approach.

Review and campaign for stronger music-maker rights

The music-maker and management communities should review the general legal requirements regarding music-maker consent – including in copyright law, but also as a result of publicity rights and data protection law. This may require more clarity in law and/or an extension of rights, including the introduction of publicity rights in UK law.

Confirm position with existing business partners

Music-makers and their managers should confirm to any labels and publishers they work with that they have not provided their consent for their music to be used to train generative AI models. While there may remain some debate as to what consent is required – if any – by a label or publisher, it is good to be clear that no consent should be assumed or implied.

Consider AI in all new deals

When music-makers and their managers are negotiating new deals with labels and publishers, they

AI CHECKLIST

- Music-makers and managers should consider how AI tools can enhance and assist their businesses

- Music-makers and managers should be aware of what rights they are granting when they use AI tools

- Music-makers, managers and the wider music industry should campaign for clarity on AI company obligations

- AI companies must seek consent from rights-holders and be fully transparent about training datasets

- AI companies and rights-holders must seek explicit music-maker consent

- Rights-holders should involve music-makers and managers in the development of AI business models

- Rights-holders should be fully transparency about their AI deals and revenues

- Managers should review existing music-maker record and publishing contracts in the context of AI

- Managers should ensure that AI considerations are included in new music-maker contracts

should ensure that music-maker consent is required before their music is licensed for the purposes of training AI models, and also seek transparency obligations from each rights-holder regarding any use of the music-maker's music by AI.

They should also be careful when granting business partners any rights beyond copyright, such as publicity rights, and by very clear what the business partner's involvement will be in these areas.

This is an interim guide for music managers on how artificial intelligence is impacting on the music industry. It has been produced by music consultancy CMU for the Music Managers Forum.

ABOUT THE MMF

MMF is the world's largest professional community of music managers in the world. Since our inception in 1992 we have worked hard to educate, inform and represent our managers as well as offering a network through which managers can share experiences, opportunities and information.

We are a community of over 1500 managers based in the UK with global businesses and a wider network of over 2700 managers globally. We engage, advise and lobby industry associates and provide a professional voice for wider industry issues relevant to managers.

The MMF runs training programmes, courses and events designed to educate and inform artist managers as well as regular seminars, open meetings, roundtables, discounts, workshops and the Artist & Manager Awards.

themmf.net

ABOUT CMU

CMU helps people navigate and understand the music business through media, training, consultancy and events.

Our media includes the CMU Daily bulletin, Setlist podcast and online CMU Library.

We offer our own music business training programme and deliver training courses for music companies and organisations.

Our consultancy work sees us provide strategic support, intelligence and expertise to a wide range of clients in the UK, EU and around the world.

We also regularly produce and publish research reports and white papers on the very latest trends in the music business.

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