



The Association of Photographers' Position on:

AI and Contract Terms

The Association of Photographers (AOP) is a trade association for professional photographers and image-makers. By and large, our members work as freelancers, ranging from new and emerging talent to well-established professional practitioners, all producing still and moving imagery for commercial use by their clients – regardless, they are all highly skilled and qualified to deliver exceptional services and deserve to be consulted for consent on any use of their creative works, and subsequently paid fairly for that use.

Our members, indeed, all professional creators, invest significant time, effort and money to produce their work. In this so-called 'Brave New World' of generative-AI where all creators unwittingly find their images and creative works in AI training datasets, which form the basis of text-to-image generative-AI platforms, there is a clear inequality and disregard for those creators' rights, specifically copyright, and a dramatic undermining of their livelihood. The foundation of copyright is to enable a creator to control the use of their creative works, not least in order to make a sustainable business. This is not the situation in which creators currently find themselves in.

It is imperative that those who act as intermediaries and license photographers' works to third parties or decide to utilise these works in order to provide a generative-AI service to their own customers, review their existing contracts and consult with their contributors. Where necessary, new contract terms that address this aspect of use should be issued. These new terms should not only consider developments in technology that were never envisaged by either party until very recently, (such as generative-AI), but must also be transparent about the rights that are being granted by the contributor for the intended use of their work.

Importantly, new contract terms must include the right to choose whether to 'opt in', if contributors' works are to be used to train any AI program. It is not good enough to attempt to rely on pre-existing contract terms where the scope of the licence and rights granted would not have envisaged the use of contributors' images to form training datasets that generative-AI platforms are based upon and importantly, now compete directly with contributors' own styles of photography with the inevitable detrimental impact on their professional livelihoods that brings.

Incentivising professional photographers and image-makers both financially and creatively is essential to ensure a vibrant and sustainable image-making industry, which continues to punch above its weight in terms of adding value to the UK's economy. This means that our industry must seek the moral and ethical high ground through the engagement with and consultation of contributors to secure their permission over the rights being granted before embarking on further exploitation of their works for AI programming purposes. This safeguarding measure for creators, would by extension, instil trust and accountability for both creators and end-users of their work.

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