Rt Hon Nadine Dorries MP
Secretary of State
Department for Digital, Culture, Media and Sport
100 Parliament Street
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CC.

George Freeman MP, Parliamentary Under Secretary of State (Minister for Science, Research and Innovation), Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

6 July 2022

Dear Secretary of State,

I am writing to you on behalf of UK Music, the collective voice of the UK music industry, following the publication of the Government's response to its consultation *Artificial Intelligence and Intellectual Property: copyright and patents*.

Specifically, we are greatly concerned about plans to allow third parties to use creative works, including music, for data mining purposes without the need for creators and rightsholders to provide permission. This would significantly undermine the basic principles that the creative industries are based on and runs contrary to the welcome ambition you have set out to protect our world-leading creative industries and build on their success. We seek your urgent intervention to reject the current plan ahead of any decision to take forward legislation.

Pre-pandemic the music industry was worth £5.8 billion to the economy, generated exports of £2.9 billion and employed almost 200,000 people. It forms a key part of the UK's globally celebrated creative industries that are worth in excess of £100 billion to the UK – and a huge part of that success has been down to our robust copyright laws. However, the proposals on data mining risk undermining that framework and causing significant damage to a whole range of sectors.

Through existing licensing and commercial arrangements there is an opportunity for Artificial Intelligence companies and creative businesses to innovate together and grow in tandem. This is already happening. The Government already believes "the UK is a global superpower in AI, well placed to lead over the next decade".[1] This makes it

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[1] Par. 13 https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents/outcome/artificial-intelligence-and-intellectual-property-copyright-and-patents-government-response-to-consultation

hard to comprehend how the existing text and data mining laws that the Government now seeks to change in order to boost AI, are in any way inadequate.

Any change to the law could have drastic, unintended consequences. In the consultation the Government acknowledged unknown and potential impacts as reason for not acting with regard to computer-generated works. However, despite not finding any market need for a new text and data mining exception and without any supporting evidence provided in the consultation to justify such a change, the Government still plans to legislate in that area. This is a profoundly contradictory approach to policy making. The Government has also ruled out an alternative text and data mining exception applied elsewhere on the basis that it is "too early to say how it is operating"[2] but has instead favoured an alternative option with potentially far more devastating impacts.

These proposals have caused serious concern right across the music industry. More broadly, they are hugely concerning to the future growth of the whole of the creative industries, which we understood the Government intended to boost over the next decade. Rather than adopt a more sensible targeted approach, the Government has rejected narrower legislative changes and taken a huge risk by opting for the widest possible exception on offer. By seeking a text and data mining exception 'for any purpose', and without an available opt-out, the Government would be inflicting the maximum potential harm on the creative industries as a result of this policy.

Our innovation has value. Our creative IP is not raw material for others to freely monetise – yet this is what these proposals open the door to.

The Government's consultation response indicates there will be safeguards for rightsholders to protect their work from the exception but also explicitly rules out licensing, opt opts and contracts as a means for doing this. How else are legitimate rightsholders to protect their assets and creators to protect their works? There is no reassurance provided in the Government's statement that would leave the music industry feeling that any purported safeguards would have the necessary teeth when seeking to protect the legitimate rights of creators for their work.

If this is, as reported, an example of a Brexit opportunity then we are profoundly disappointed. The UK is rightly using its new status as a free-trading nation to strike new trade deals all over the world – and we have been assured that copyright will be at the heart of those agreements. It is strange that we should be rightly promoting the importance of IP and copyright in trade deals abroad, yet proposing measures that would undermine it at home.

Ultimately, if enacted these proposals will result in a significant UK advantage lost. The measure would undermine existing copyright protections and lead to a transfer of value from the successful UK creative sectors, to big, international tech companies. The UK currently enjoys world leading IP protection. This could be developed even further as a result of leaving the EU yet instead this exception leaves UK rightsholders

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[2] Par. 53 https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents/outcome/artificial-intelligence-and-intellectual-property-copyright-and-patents-government-response-to-consultation

dangerously exposed and vulnerable. More broadly, the measure potentially constitutes a breach of international law established under binding WTO rules, specifically the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Most concerningly, these proposals suggest an alarmingly disconnected broader attitude to copyright and the creative industries from policymakers. As you know, the UK's strong IP and copyright laws are one of the foundations of our world-leading creative industries. Those who make new works need to have confidence that their creations will be theirs, and they can benefit from their own work. Without that, the incentive to innovate or create will be diminished and those who do will be at risk of exploitation. This is a fundamental principle across the whole of the creative industries, and yet is undermined by these new proposals on data mining.

UK Music supports attempts to grow the UK's AI sector yet this cannot be achieved by taking away vital tools that enable the music industry, and other IP reliant sectors, to innovate. These proposals are dangerous to the future prospects of our globally successful sector. As someone who has always championed our world leading creative industries and knows from personal experience just how important robust copyright protections are, we ask for your support to help to guarantee this proceeds no further.

Yours sincerely,

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