

## COPYRIGHT OFFICE

### Copyright Considerations when using Artificial Intelligence (AI) platforms/tools in teaching, learning and research activities.

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#### Introduction

Generative AI platforms are capable of producing diverse and innovative content, often with minimal human intervention, making them valuable tools for tasks like creative writing and content creation in teaching, learning and research activities within a university environment.

It is important to understand that copyright responsibilities and obligations exist when using these platforms.

In order to produce new material, AI tools have been trained on existing content created by humans. So, while AI technology can be used as a tool as part of a creative process to adapt and transform your own original expressive work, one challenge is to determine the copyright status of the training material and their impact on the specific output of an AI platform.

AI platforms and interpretations of related copyright laws are evolving, and as such, this information and advice will be monitored and is subject to change.

#### Key Definitions

- **Generative AI platform:** A generative AI platform is a technology framework that enables the creation of content or data by mimicking human creativity, language and logic. It uses algorithms to generate new and original outputs, such as text, images, video, or music, based on patterns and examples from existing data (E.g. Microsoft CoPilot, ChatGPT).
- **Training material:** Refers to material inputted to the AI platform by the platform developers to which the platform technology draws upon and analyses, effectively training itself to enable the creation of generative AI outputs.
- **User input:** A user input often referred to as a prompt, is any instructions or material provided to an AI platform by the user that enables the platform to create generative AI outputs.
- **Generative AI output:** A generative AI output is the result produced by an AI platform after processing the input material.

#### Key Concepts

##### Copyright responsibility

- Some generative AI platforms will allow you to input material for the AI platform to analyse and draw from. In the circumstances where you did not create the inputted material, you have a responsibility to ensure that you have a licence or permission from the copyright owner to copy and reproduce their material into an AI platform. This may take the form of relying on an express licence (e.g. Creative Commons, terms of a website), allowances under the Australian Copyright Act 1968, or direct permission from the author or copyright owner.

## **Other considerations**

When deciding to use an AI platform, you need to consider:

- The terms of use of the AI platform:
  - These terms address how an AI output can be used including stipulating ethical and moral conduct requirements.
  - The terms of an AI platform may also include specific guidelines on the use of user inputs including the use of third-party content that appears in an AI output.
  - The terms of an AI platform may address how training material is handled. In some cases, a user inputting material to an AI platform may result in that material being added to the overall training database, which may affect the exclusive rights of the creator of that material.
- AI licensing requests: You may be approached by parties seeking to allow your work to be included in generative AI licencing deals. Agreeing to this request may result in the loss of your exclusive ownership rights of your work and make it difficult for others to comply with your moral rights in acknowledging the use of your work. You should seek assistance in understanding the implications and principles associated with such a request.
- Confidentiality: If an AI output contains sensitive or confidential information, ensure it is handled in accordance with relevant privacy laws and institutional policies.
- Accuracy: Be sceptical and validate the accuracy and reliability of an AI output, especially if it is being used for critical decisions or published content.
- Acknowledgement: Clearly indicate when content has been generated by an AI system, particularly in contexts where transparency is required or expected.
- Compliance: Seek assistance about changes in copyright laws, platform policies, and best practices related to AI generated content to ensure ongoing compliance.
- Ethical Implications: Reflect on the broader ethical implications of using AI generated content, including issues related to bias, fairness, and the impact on various stakeholders.

## **Copyright ownership of AI platform outputs:**

- Copyright law is designed to incentivise creative human expression and thus the notion of allowing copyright protection of works created by AI, will challenge this principle.
- As of 2024, copyright ownership of AI outputs is not directly addressed or defined in the Australian Copyright Act 1968.
  - However, based on current definitions of what is protected by copyright and language references to only human (i.e. 'person') expressions being protected, an AI output may not be protected by copyright.
- Use of the AI platform output can still be governed by the platform terms which should always be confirmed.
- If you selected and arranged multiple AI generated outputs in a sufficiently creative way to produce a work that is original and unique, copyright ownership in this new work will reside with you, even though individual components of the work are AI generated outputs.

## **Authorship of AI platform outputs:**

- A generative AI output may be created through a combination of user prompts and pre-existing training material. If AI technology is responsible for the creation of the output, the generated material may not be defined as a creation of the user of the platform.
- Therefore, in this circumstance, the user of the AI platform may not claim authorship to the output and doing so would be an unethical choice.
- In using the output, it is important to attribute the creation of the output to the original platform that generated the output. It is not a legal requirement to attribute material that is not protected by copyright but is recommended that you acknowledge the source of the material as per the following examples:

“Created using AI platform ChatGPT”.

“Adapted from material created using AI platform Microsoft Co Pilot”.

## **Further Information**

- [Australian Government: Generative AI and the IP rights system](#)
- [Australian Copyright Council: Artificial Intelligence and Copyright](#)
- [Arts Law Centre: Artificial Intelligence and Copyright](#)

## **Further Assistance**

If you have any questions or thoughts on the material presented in this document, please do not hesitate to contact the La Trobe University Copyright Office: [copyright@latrobe.edu.au](mailto:copyright@latrobe.edu.au)