

Report | Policy Roundtable on Generative AI

Prepared by the Cultural Policy Hub

On June 25, 2024, the Cultural Policy Hub at OCAD University hosted a virtual roundtable featuring tech and cultural experts to explore the policy implications of Generative Artificial Intelligence (AI)'s impact on the cultural industries in Canada. In this report, we summarize the key points from the discussion, and offer a few recommendations put forth by the participants on cultural policy-oriented actions that can be taken to respond to the issues that were explored.

The group was asked to share some concrete ideas on how we can devise and support policy-oriented actions. The key recommendations that emerged were:

1. Ensuring that artists and representatives from the cultural and creative industries are consistently included in policy discussions around AI;
2. Encouraging and fostering diversity when creating opportunities for engagement on this issue and when developing policy responses to it;
3. Exploring opportunities and models for collaboration outside of traditional arts and culture partnerships, given the scope of the issue and its impact across industries and segments of the public.

The panelists also provided insight on needs in the short term around regulation, research, learning and communication on this issue, and the longer-term risks and potential impacts of these technologies on society and culture.

Artificial Intelligence, Now and in the Future

The roundtable started off with comments from Duncan Cass-Beggs, whose focus in his work at the Centre for International Governance Innovation (CIGI) is on the global scale risks and challenges that may be emerging from AI, especially AI technologies that we can imagine being developed in the future. The key message he imparted was that those working in this field should look beyond the GAI tools at our disposal today to imagine much more powerful systems and the policy responses they will require. The scale of investments being made in AI, and the accelerating rate of automated AI research (AI conducting research on its own behalf) will lead to exponential growth in the capabilities of these tools.

As Cass-Beggs pointed out, there are policy interventions that are critical to the current moment, like greater scrutiny and inclusive decision-making about the direction of AI development. From the perspective of the cultural sector, Cass-Beggs reiterated the idea that culture is the “canary in the coal mine” in terms of the potential benefits brought forth by AI, but also its potential harms and dislocations. He noted that it is somewhat surprising that AI has affected cultural industries so early, when we may have imagined that human creativity would’ve been one of the “last bastions” for AI to influence. Nevertheless, culture finds itself at the forefront of the discussion about how we want to respond to and shape these technologies going forward.

A Primer on AI

The roundtable also featured a primer from Katrina Ingram, the founder and CEO of Ethically Aligned AI. Ingram pointed out that we often think of AI as technology, but that we should be expanding our perspective to include the larger impact this technology has on culture and society. AI is also a socio-technical system, one woven into the digital fabric of our world, and a tool in knowledge production and sharing, a “way of knowing.”

When it comes to Generative AI, Ingram pointed to three key issues—who controls it, how it’s made, and how we use it—and their implications for the cultural sector. The consolidation of control of this technology among a relatively small group of companies should be a significant concern for all sectors, as should be the environmental impacts stemming from the design of these models. There is significant human bias being transferred into these models, and there is also the issue of processing data: the data labelling labour required to make these technologies work is typically shipped off to other countries, and there is a documented adverse impact this work has on the people who do it (e.g. people being exposed to traumatizing imagery.)

Data Usage and Creative Work

Another issue that has been well-documented as a central focus of policy debates around GAI is copyright. According to Ingram, the practice of simply taking data without consent to conduct machine-learning has become a standard practice in the industry. People working with this data do not typically trace it back to its source, and so far there hasn’t been enough consideration on the part of developers around how people might be affected by its (mis-)usage.

For panelist Margaret McGuffin, the CEO of Music Publishers Canada (MPC), the practice of data scraping and harvesting creative work without consent or credit is evidence of the need for new licensing standards, both nationally and internationally. As things stand, companies developing AI models are not coming forth to ask for permission in terms of licensing to use content for these purposes. This has led MPC and others to make a case for the feasibility of a licensing model and market around the use of copyrighted material in the development and training of GAI models. McGuffin stated that there is a strong belief that the current copyright framework in Canada can handle a licensing regime, and that arguments that this would be too difficult echo similar debates from almost twenty years ago during the rise of music streaming platforms and artists' compensation for the inclusion of their work on those platforms.

According to McGuffin, the key need here is to have regulation around retention of data and data transparency. Too many companies are licensing huge amounts of data from third parties without any idea what is in those datasets, while the people whose creative work are included in those datasets aren't being credited or compensated. But addressing this is possible. The EU has set precedents on transparency regulations through the *EU AI Act* that will become law in the next few weeks, which include requirements that third parties understand what they are using in their training and GAI models.

Reputational Risks and Data Transparency

The panelists pointed to protecting the likeness of Canadians as a critical issue in this debate, due to the rise of Deepfake and other image-generating technologies that are hard to distinguish from real video. This has been a key focus of work undertaken by the Coalition for the Diversity of Cultural Expressions (CDCE). Their Executive Director, Marie-Julie Desrochers, shared that we sometimes hear that we shouldn't need to adapt a Bill on AI to address likeness infringement, because there are already laws in place that protect against the misuse of a person's likeness. But we don't have a uniform law in place, and the legal and economic burden on anyone having to defend themselves in these cases is so high that we really need additional protections.

The CDCE has put forth two main recommendations/demands through government consultations on AI. The first is to have the definition of prejudice be broadened to include the notion of reputational risk from infringement on a person's likeness. The second is around transparency. The CDCE insists that Canadian legislation needs to have provisions around transparency in place that are similar to those included in the *EU AI Act*. In Canada,

the *Copyright Act* provides some protections against things like Text and Data Mining (TDM), so the CDCE wants to ensure there are no changes to those protections. On the flipside, the release of responses from the ISED Consultation on Generative AI and copyright revealed responses from the private sector asking for exemptions from copyright protections and licensing responsibilities, which the CDCE opposes.

Collaboration

The panel's moderator, Florence Girot, asked the participants to reflect on how to strengthen collaborations at the local, federal and international levels. For Ingram, the need for strong collaboration across the cultural industries comes in part from the need to respond to the tech sector's significant lobbying power. She spoke to her work as a Fellow with For Humanity, a global grass-roots organization building AI Audit standards mapped to regulations like the General Data Protection Regulation (GDPR), the *EU AI Act* and other forthcoming AI regulations. Her engagement with a wide range of local stakeholders (students, seniors, organizations, etc.) to engage in processes of ethical deliberation around AI has informed shared perspectives on how these tools align with peoples' and organizations' values. These conversations can vary based on the discipline of the people she's working with and are less about whether to use AI tools, and more about how to responsibly engage with them as they become part of our day to day lives. All of this serves to encourage policymakers to ensure they are welcoming a breadth of perspectives to this policy discussion.

Responding to the prompt on collaboration, McGuffin spoke to Music Publishers of Canada's efforts to stay apprised of developments and precedents in other countries. They've seen a trend where governments try to attract technological investment by not protecting artists and their copyrighted work. It's critical for the creative and cultural industries to be at the table when discussing these regulations, both at the provincial and the federal levels. For McGuffin, the real need is to come together to establish a common set of facts that can be shared with those working in the cultural sector to ensure consistency in the recommendations and demands being put forth on behalf of artists, creators, and cultural workers.

Desrochers, meanwhile, responded that while consultation and collaboration at the international level is critical, we cannot sit idly by at the national or local level while waiting for action to be taken at the international level. There are also some potential trappings from looking to international precedents, as some jurisdictions are more helpful than

others. While the CDCE has been overall inspired by the *EU AI Act*, it does include certain provisions (e.g. a TDM exemption) that they would not want to see here in Canada.

Research

In response to a prompt about what academics can do to contribute to this conversation, Ingram offered that they need to find ways to foster conversations across disciplines and departments and break down siloes that can be barriers to engagement and innovation. Individually, organizations and individuals may not have the capacity to engage in research and consultations to put forth their perspectives; but together, there is a lot more capacity for the cultural sector to be included. For McGuffin, the cultural sector has lost some of its copyright fights because it has come into them way too late and without the research and evidence required to support its positions. Now, there needs to more investment into research in the AI field, and the cultural sector needs to be able to access that research in order to make sure its ahead of the conversation and not playing catch-up on the legal and academic fronts. Collaboration with academic institutions is especially important given the limited capacity and the precarity faced by the cultural sector.

Engagement from the Cultural Sector

When asked how we include or prioritize issues around diversity, accessibility, and environmental sustainability into discussions around AI, Desrochers responded that the cultural sector is usually an afterthought in public policy discussions, including those around AI. She provided the example of ALL IN—an AI summit put on by major Canadian AI research groups (Mila, SCALE AI, ceimia) that are pushing for responsible AI development and tools—that billed itself as “the most important event dedicated to Canadian AI” but whose program didn’t have a space in which to engage the arts and cultural sector on this issue.

The panelists agreed that there needs to be a strong voice from experts from the creative and cultural industries at the table as when government departments gather stakeholders to talk about AI. The diversity and perspective that can be brought forth by the arts and cultural sectors can help ensure that, when it comes to AI policy development, what’s good for all Canadians includes what’s good for artists and creative workers.

The Cultural Policy Hub will continue to work on this policy issue. We are building a community of practitioners—artists, arts organizations and membership organizations,

researchers, and policy-makers—to work with us. Please reach out if this is of interest to you.