

Scene-setter | Generative AI: Policy Pathways for the Arts and Cultural Industries

Prepared by the Cultural Policy Hub at OCAD University

The Cultural Policy Hub at OCAD University is a national, bilingual platform that builds communities of practice among researchers, policymakers, artists, and creators from across Canada's academic, government, non-profit and private spheres. It supports cultural policy decision-making from the local to the national levels and seeks to be a partner in public policy issues to which the cultural sector contributes—and those by which the sector is affected.

This scene-setter gives background on the Hub's upcoming Policy Roundtable event [Generative AI: Policy Pathways for the Arts and Cultural Industries](#).

The scene-setter and upcoming event are part of a program produced by the Cultural Policy Hub to ensure that Canada's cultural industries have a voice in the policy debate on GAI. So far, this has included:

- A [bilingual toolkit](#) that helped artists, cultural workers and organizations participate in ISED's Consultation on Copyright in the Age of Generative Artificial Intelligence;
- A roundtable in November 2023, co-developed with the Department of Canadian Heritage as a conversation between cultural sector, legal, and academic experts and senior government officials on the social and cultural impacts of AI, which have in turn shaped the Hub's thinking on these issues;
- A [blog](#) post summarizing what was discussed at the November roundtable, including key issues in the AI policy landscape in Canada and paths forward for responsible AI governance and policymaking;
- A virtual working group comprised of researchers, academics, artists and lawyers involved in policy discussions around AI's impact on the arts and cultural sector.

This scene-setting document builds upon those key issues and resources and sheds lights on the need for wider cultural sector engagement in AI policymaking processes in order to prepare readers for the Hub's Generative AI Roundtable event.

Details for the upcoming roundtable event, which takes place over Zoom on June 25, 2024 at 1PM (EST) can be [found here](#).

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Generative Artificial Intelligence (GAI) technologies are developing at an alarming pace. Some of these technologies have become fixtures of how many of us live, work, create, and play. GAI tools are making it easier for people to write, do research, and make art, music, and other

creative content. They answer the questions we ask our smart devices, power the video games we play, and are reshaping many labour sectors. Whether we're conscious of it or not, many of us engage with GAI tools every day.

In an effort to respond to this massive technological shift, governments around the world are working to develop both responsive and proactive policy to regulate the development and application of GAI across a number of contexts. Internationally and in Canada, government, academic and civil society leaders within the debate around GAI regulations are emphasizing the importance of a human-centric approach to AI governance that ensures net positive economic, environmental, social and cultural impacts.¹ This human-centric approach prioritizes equity, anti-racism and harm reduction in the development of social safety measures around GAI. It also works to address the cultural impacts of GAI, including how people make, share, and engage with art and culture in a context where GAI tools are at their disposal, but where those same tools can convincingly do some of this creative work for us.

Artists and cultural workers have been among the first to feel the direct impact of large-scale adoption of Generative AI. Workers in the cultural industries are likely to experience increased precarity unless they are trained to use GAI tools (ethically and responsibly) and unless adequate safeguards come into play. Advocates for those working within the cultural sector are calling for clear GAI resources and policies that:

- Train artists and cultural workers on responsible and ethical use of GAI tools;
- Protect the skilled labour workforce of artists and cultural workers, including by providing retraining to support how to navigate GAI-related changes in their work;
- Prevent infringement of intellectual property;
- Bolster transparency around how and when GAI is used to produce content, and;
- Address deepening polarization, systemic racism, sexism and other inequities within physical and digital environments.

This summary of cultural policy implications highlights the complexity of the issue at hand and the potential risks that policymakers should mobilize to mitigate. Many experts are pointing to the arts and cultural industries as the “canary in the coal mine” when it comes to the risks and potential disruptions of GAI. How, then, should cultural policy makers respond? And what's been done so far to address these compounding concerns and create sustainable pathways for the sector, both in Canada and abroad?

AI & Cultural Policy: International Frameworks

In November 2023, UNESCO hosted [Film Sector on the Frontlines](#), an event bringing together diverse voices from the film and television and AI industries to discuss the impacts of AI on the creative industries. UNESCO was a natural host for this event, given its role as an early intervener in AI policy debates, including the 2021 [Recommendation on the Ethics of Artificial Intelligence](#). As the first global standard-setting instrument on the ethics of AI, these

recommendations highlighted AI's potential to support cultural preservation and transmission, while stressing the need to investigate the impacts of its applications. During UNESCO's [World Conference on Cultural Policies and Sustainable Development - MONDIACULT 2022](#), the assembled Ministers of Culture underlined the structural impact of digital transformation on societies, including AI systems and insufficient regulation of algorithms.ⁱⁱ

UNESCO's [Film Sector on the Frontlines](#) event was, in part, a response to the 2023 [Screen Actors Guild - American Federation of Television and Radio Artists' \(SAG-AFTRA\)](#) strike. The SAG-AFTRA strike significantly raised the profile of the debate around GAI protections for cultural workers and creators, and especially for screen and radio performers. After months on the picket line, SAG-AFTRA won an [agreement](#) with, among many other gains, compensation and crucial protections for performers against the unauthorized use of AI-generated replicas of SAG-AFTRA members both living and deceased.ⁱⁱⁱ

The strike came alongside several major policy developments in other regions that have addressed the risks of the rapid proliferation of GAI technologies across the globe. Some of these early and noteworthy international frameworks include:

- The UK's [AI National Strategy](#), released in September 2021, which focused on AI governance, long-term planning, and supporting the AI-enabled economy across sectors. This followed a [consultation summary](#) in March 2021 by the UK's Intellectual Property Office that envisioned a positive future but also highlighted warnings that "AI could take the humanity out of the creative process and harm the human creators that intellectual property is designed to protect and reward"^{iv};
- The White House Office of Science and Technology Policy (OSTP)'s [Blueprint for an AI Bill of Rights](#), which lists five principles and associated practices to form an overlapping set of backstops against potential harms arising from AI;
- The Organisation for Economic Co-operation and Development (OECD)'s [Framework for the Classification of AI systems](#), touted as a user-friendly tool that can help policymakers, regulators, legislators and others characterize and evaluate AI systems from a policy perspective;
- The Australian Government's [AI Ethics Framework](#), a comprehensive set of principles, tools and case studies designed to guide the responsible design, development and implementation of AI;
- Japan's [AI Code of Conduct for Organizations Developing Advanced AI Systems](#), released at the G7 Hiroshima Summit last year, which promotes a "sector-specific and soft-law-based" approach of non-binding guidance, while requiring transparency and data protection in some sectors.

These frameworks, though comprehensive, lacked enforceable regulatory tools until the arrival of the [EU Artificial Intelligence Act](#), the world's first standalone law governing AI and probably the most significant development on global AI policy to date.^v The *EU AI Act* set a global standard for assessing potential risks that AI and GAI tools and applications could pose to

residents, and established two important precedents with cultural policy implications around content transparency and copyright. First, content that “appreciably resembles” people, places, or events created using deepfake and automatically generated technologies will have to be disclosed as such, due in part to its potential impact on individuals’ rights, on cultural integrity and on public trust.^{vi} Second, the *Act* also upholds copyright protections for artists and creators whose work is used to develop and train AI and GAI systems, requiring developers to secure permission to do so.^{vii}

With the mechanisms to monitor and the instruments to enforce those regulations not yet in place, there are still a lot of questions around what impact the *EU AI Act* will have across industries. But the standards set therein will no doubt inform the approach of other jurisdictions looking to harmonize international legislative approaches and policy responses to this issue.

Cultural Policy and GAI in Canada

Like in many jurisdictions, GAI development and adoption in Canada is accelerating beyond the pace of policymaking. The arts and cultural industries have been identified as one of a few sectors that is already being significantly impacted by GAI. According to Statistics Canada, almost one in four businesses in information and cultural industries are already using generative AI, and this rate was even higher for those businesses with over 100 employees.^{viii} Additionally, just over two-thirds of these businesses using or planning to use GAI saw its value in accelerating creative content development.^{ix} As this technology develops, so too will its impact on industries: in a recent report by Conseil de l’innovation du Québec, leaders from the gaming industry estimate that in 5-10 years, AI will be responsible for 50% of the work involved in developing a new game, compared to 5% today.^x

That efficiency comes with some key risks, including: fewer jobs or hours for creatives resulting from the automation of skilled human creativity and labour; public use of intellectual property that infringes upon artists’ rights to and compensation of their work; and the deepening of existing systemic inequity, bias, and marginalization alongside increased political polarization.^{xi} Those risks, according to roundtable panelist Duncan Cass-Beggs, may be being felt by cultural workers and creatives early on, but they will not be limited to the sector; the existential questions around GAI and the risks it poses to the creative sector will be coming to the remainder of the workforce—and other government policy areas—soon enough.

Despite the lag between AI development and its policy response, the Government of Canada has taken some action to introduce standards and safeguards for generative AI systems development and deployment at home. In 2021, it established its Advisory Council on Artificial Intelligence. Back in June 2022, the federal government proposed [Artificial Intelligence and Data Act \(AIDA\)](#), introduced as part of [Bill C-27: Digital Charter Implementation Act](#), to establish an accountability framework for safe, responsible, and non-discriminatory approaches to the design, development and deployment of the AI systems that impact the lives of Canadians. In the interim, a [Voluntary Code of Conduct](#) on responsible GAI development and management

was developed by Canada’s department of Innovation, Science and Economic Development Canada (ISED) in 2023; as many critics of the code have noted, an opt-in model will be ineffectual as a tool to ensure safe and ethical approaches to GAI development and deployment. Meanwhile, critiques of AIDA have been directed at the lack of meaningful, transparent, government-led public engagement around GAI and its social impacts.

At the provincial level in Canada, the Government of Quebec and its partner agencies have especially proactive in undertaking policy development and consultation on GAI. In 2023, the Government of Quebec mandated the Conseil de l’innovation du Québec (CIQ) to coordinate a collective reflection to identify the issues raised by AI and pathways to ensure its responsible and ethical development. The resulting [report](#) was released in February 2024. It included [12 primary recommendations](#)—and 37 recommendations in total—to ensure responsible AI development and use the technology in Quebec. Among those recommendations were ones directed at protecting Quebecois artists, cultural workers and the diversity of cultural expression, namely by accelerating the modernization of copyright law to protect rightsholders, but also to activate levers to address the discoverability of Francophone and Indigenous content in the face of AI-driven algorithms that threaten that discoverability.^{xii}

From August 2023 to January 2024, ISED held the [Consultation on Copyright in the Age of Generative Artificial Intelligence](#). This consultation was an invitation for civil society to share their perspectives and influence the regulatory frameworks for GAI. Specifically, it worked to inform amendments to [C-42: Copyright Act](#), as well as a code of practice for GAI systems regarding text and data mining, authorship, and infringement. (*For more on the consultation process and some of its limitations, see the [Cultural Policy Hub’s GAI Consultation toolkit](#).)* The consultation also was the first significant opportunity for artists, cultural workers and their representatives to participate meaningfully in a government-led policy discussion around GAI and its social and cultural impacts.

The resulting submissions from artists, cultural workers, and their representatives (Arts Service Organizations, unions and guilds) were generally consistent in their recommendations: protection of artists intellectual property, transparency and remuneration when artists intellectual property is used or infringed upon, and, critically, more consultation with the cultural sector in the development of legislative and policy responses to the issue of GAI on copyright and other fronts.

[Music Publishers Canada’s response](#), prepared by MPC CEO and roundtable panelist Margaret McGuffin, indicated that “the astonishing rate of both acquisition (or sometimes appropriation) of copyright-protected datasets and content on the input side, together with the development of generative AI models on the output side, pose serious risks for Canada’s creators and the companies that invest in them.”^{xiii} And with the recent federal budget release, music creators were hoping (but failed) to see copyright modernization recognized in the budget to reflect the current realities of digital music creation that artists are facing through an updated Copyright Act.

The [Canadian Artists' Representation / Le Front des artistes canadiens \(CARFAC\)](#) and [le Regroupement des artistes en arts visuels du Québec \(RAAV\)](#), who represent thousands of visual artists across Canada and Québec, highlighted the need for more transparency and supports for Canadian artists so they can defend their copyrights in an increasingly opaque legal and regulatory environment. The Writer's Guild of Canada (WGC), in [their response](#), pointed to asymmetry of knowledge between creators and AI developers with regards to knowledge available on what and how work is being mined, and urged that transparency in text and data mining (TDM) should be a place for copyright law and policy to start. Meanwhile, the Directors Guild of Canada (DCG) expressed [concerns](#) of TDM having the potential to “rob their creative and economic rights.”

On the side of performing arts, film and TV, the [submission](#) by ACTRA (Alliance of Canadian Cinema, Television and Radio Artists) called for the Copyright Act to reflect the new economic reality in which Canadian artists operate. Echoing what its sister union SAG-AFTRA won following its strike, the imminent need for Canadian performers is to protect them from any misappropriation of their likeness that would infringe upon their intellectual property. It also recommended removing AIDA from Bill C-27 and to have it reintroduced to the legislature as a standalone bill, given its complexity and the critical implications it holds for Canadian creative practitioners.

A number of submissions summarized these recommendations as the “three C’s” of consent, credit, and compensation. The consistency of recommendations across responses from those representing the cultural sector was partially the result of coordination on the part of the cultural sector; but it also reflects the universality of the potential opportunities and disruptions that GAI can bring to an array of creative disciplines and industries.

What comes next?

One of the outcomes of the ISED Consultation on GAI and Copyright has been the consistency of calls for deeper and more meaningful engagement with the cultural sector on the future of AI policy and legislation in Canada, and for that engagement to extend to arenas beyond copyright and labour. For example, the focus of the prompts in ISED’s Consultation questionnaire left little room for reflection or comment on the biases that GAI (re)produces around race, ethnicity and gender. Concerns from within communities ask fundamental ethical and epistemological questions, including discussions on values systems, intellectual property rights, and the digitization of Indigenous data and the right to self-determination (driven by people themselves) and data sovereignty (to self-govern data). For leaders in the field like roundtable panelist Katrina Ingram, these questions and concerns have been the central focus of her engagement within the sector, which aims to ensure “that marginalized and vulnerable communities are not only protected from harmful outcomes, but also have an active role to play in shaping our future.”^{xiv}

Quebec-based national organization the Coalition for the Diversity of Cultural Expressions (CDCE)— and its Executive Director (and roundtable panelist) Marie-Julie Desrochers—have been at the forefront of these conversations from the policy side, convening with international experts to align on protecting cultural sovereignty, and, as the conference theme title implies, “Promoting our Cultures in the Digital Age.” The CDCE’s recommendations to UNESCO highlight some of the key tenets of a socially responsive and culturally responsible GAI policy approach: the protection of cultural labour, expression, and products, and the disclosure of any GAI tool’s role in creating or disseminating those products.^{xv} (*To learn more about what the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions means for artists and cultural workers, see this [information webpage](#) created by the CDCE.*)

Discussions around AI ethics have also raised promising opportunities, such as AI’s potential to contribute to cultural revitalization. Indigenous-led organization [Indigenous AI](#) has been at the forefront of researching what AI could look like if its conceptualization and design were based on Indigenous knowledge systems. Leaders like [Michael Running Wolf](#) and [Jackson Leween Two Bears](#) have been exploring the creative use of digital technologies to support expressions of Indigenous creative and cultural practice. This has included experimenting with Natural Language Processing (NLP), using GAI as a tool to rebuild Indigenous languages and cultural knowledge that are at risk of being lost. For those interested in designing AI from an ethical position that centers Indigenous concerns, Jason Lewis’ [position paper](#) on Indigenous Protocol and Artificial Intelligence (IP AI) is an invaluable starting point.

Meanwhile, the recently established [Alliance Impact: Art, AI, Law and Society Resource Cluster](#) is providing a platform to seize the opportunities AI and GAI bring to the arts and culture sector, while addressing its legal and economic implications. According to lawyer, mediator and artist/curator Valentine Goddard, the Cluster’s aim is “to anticipate and respond to the imminent challenges presented by AI, help inform emerging AI policies and regulations, and promote the important role of the arts sector in democracy and cultural security” through a gender-sensitive and intersectional perspective.

As GAI systems are developed, improved upon and disseminated to a wider base of professionals and creatives, the need for meaningful cultural policy action becomes all the more critical. In order for that action to be informed and inclusive, there needs to be more understanding of the opportunities and risks that these technologies bring to sectors like the arts and cultural industries. For that to happen, conversation and consultation need to continue, as does capacity-building across the cultural sector to understand these technologies—and how to use them. Changes and updates are coming at a rapid pace: the morning this scene-setter was finalized, [ISED published the written submissions that it received during its consultation on GAI and copyright](#), and updated that a report would be released in the coming months. The Cultural Policy Hub and its partners in this space will continue to do their part in keeping artists and

those within the cultural industries informed of these developments to foster dialogue and engagement on this key policy issue.

About the Panelists

Katrina Ingram is the Founder and CEO of [Ethically Aligned AI](#), a company focused on helping organizations to drive better outcomes in the design, development and deployment of AI systems. A seasoned executive, Katrina has over two decades of experience running both not for profit and corporate organizations in the technology and media sectors as well as experience in the public sector. She is a member of DAMA (data management professionals) and volunteers with several AI ethics organizations. She was named to the [100 Brilliant Women in AI Ethics](#) list. Katrina holds an undergrad in business administration from Simon Fraser University, a master of arts in communications and technology from the University of Alberta and is an IAPP certified information privacy professional (CIPP/C). She combines her love of audio and interest in AI as the host of the podcast, [AI4Society Dialogues](#). Katrina developed Canada's first [micro-credential in AI Ethics](#) in partnership with Athabasca University. She currently teaches at the University of Alberta and MacEwan University as a sessional instructor in the Arts and Cultural Management program. She is a member of the Calgary Police Services Technology Ethics Committee and recently served as the City of Edmonton's Data Ethics Advisor.

Marie-Julie Desrochers fosters the concerted action and mobilization of the Canadian cultural community in the protection and promotion of the diversity of cultural expressions. She is also Secretary General of the International Federation of Coalitions for Cultural Diversity, which has led her to participate actively, in UNESCO's work on the 2005 Convention for the protection and promotion of the diversity of cultural expressions, and to take part in working groups linking culture and sustainable development. Previously, she worked at the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), notably in regulatory affairs and research. She holds a master's degree in literary studies, a bachelor's degree in French-language literature and a diploma in media art and technology.

Margaret McGuffin is the CEO of Music Publishers Canada. Margaret's career has focused on research and policy development related to the creative industries as well as strategic change management. She has worked with a large number of music industry trade organizations and collective management organizations and currently sits on the board of Work In Culture (as Past Chair) and on the Advisory Committee at MusiCounts. Margaret is also always happy to talk to you about copyright or how music publishers are leading the way in making sure Canadian songs are heard around the world. She holds a Bachelor's degree in Political Science from Western University and an MBA in Arts, Media and Entertainment Management from the Schulich School of Business.

Duncan Cass-Beggs is executive director of the Global AI Risks Initiative at CIGI, focusing on developing innovative governance solutions to address current and future global issues relating

to artificial intelligence (AI). Duncan has more than 25 years of experience working on domestic and international public policy issues, most recently as head of strategic foresight at the Organisation for Economic Co-operation and Development (OECD).

During his six years as counsellor for strategic foresight at the OECD, Duncan led the organization's efforts to better anticipate and prepare for future disruptions and emerging issues. This work involved leading collaborative strategic foresight initiatives to explore future scenarios and their implications in such areas as digital transformation, migration, climate change, governance and geopolitics. In 2021, Duncan and his team launched the OECD's collaborative foresight initiative on emerging global existential risks, aiming to better inform governments and the international community on future global challenges that may require new approaches in international collaboration. A key focus of this work was on future global risks from advanced AI — work that is continuing as part of the OECD's Expert Group on the Future of AI.

Prior to joining the OECD, Duncan worked in a variety of positions with the Government of Canada, most recently as director of strategic foresight (2013–2016) at Policy Horizons Canada. This involved leading government-wide initiatives exploring the future of various global forces of transformation, such as technological development and the rise of Asia, and their implications for Canada's society, economy and role in the world. Previously, Duncan served as director of medium-term policy and emerging issues (2004–2013) in the Learning Policy Directorate of Employment and Social Development Canada, where his team tracked emerging trends and potential disruptions, and developed forward-looking strategies to support Canadians in acquiring the knowledge and skills needed to flourish in the future economy and society. Duncan also worked in a variety of public policy areas, including organizational transformation, federalism, the social economy, homelessness, community development, persons with disabilities, international relations and international development.

Duncan completed an M.Sc. in the politics of Asia and Africa from the School of Oriental and African Studies at the University of London and earned a B.A. in economics and political science from McGill University.

About the Moderator

Expert in the screen-based industry and award-winning documentary producer, **Florence Girot** has spent the last 20+ years working with a wide range of international players, such as FIAPF (International Federation of Film Producers Associations), Disney, Women in Animation, NewImages Festival, On Screen Manitoba, and the Cannes parallel section ACID. Her career has involved various leadership roles with the constant objective of supporting creators and the industry and helping them forecast and face new challenges. For more than 10 years, she's focused her expertise on ties between the screen-based industries and new technologies.

Currently serving as Senior Manager of Foresight and Innovation at the Canada Media Fund (CMF), she monitors and analyzes the dynamics likely to (re)shape the screen industry in Canada and worldwide. She shares her knowledge and expertise with the Canadian industry

while providing CMF teams with recommendations to help the ecosystem continue to thrive despite challenges.

ⁱ <https://www.unesco.org/en/artificial-intelligence/recommendation-ethics>

ⁱⁱ <https://www.unesco.org/en/articles/unesco-world-conference-cultural-policies-and-sustainable-development-mondiacult-2022>

ⁱⁱⁱ <https://www.sagaftra.org/message-your-president-chief-negotiator>

^{iv} <https://www.gov.uk/government/consultations/artificial-intelligence-and-intellectual-property-call-for-views/government-response-to-call-for-views-on-artificial-intelligence-and-intellectual-property>

^v <https://artificialintelligenceact.eu/high-level-summary/>

^{vi} <https://www.bioid.com/2024/06/03/eu-ai-act-deepfake-regulations/#:~:text=Aspects%20of%20the%20EU%20AI%20Act%20Regarding%20Deepfakes&text=Developers%20and%20users%20of%20deepfake,the%20content%20they%20are%20viewing.>

^{vii} <https://artificialintelligenceact.eu/recital/105/>

^{viii} <https://www.statcan.gc.ca/o1/en/plus/5847-which-canadian-businesses-are-using-generative-artificial-intelligence-and-why>

^{ix} <https://www.statcan.gc.ca/o1/en/plus/5847-which-canadian-businesses-are-using-generative-artificial-intelligence-and-why>

^x https://conseilinnovation.quebec/wp-content/uploads/2024/02/Rapport_IA_CIQ-1.pdf

^{xi} <https://culturalpolicyhub.ocadu.ca/news/social-cultural-impacts-of-AI>

^{xii} https://conseilinnovation.quebec/wp-content/uploads/2024/02/Rapport_IA_CIQ-1.pdf

^{xiii} <https://static1.squarespace.com/static/63501a3fe2a5bb57513b8149/t/6571ea1418c05d3d7712c42a/1701964309211/MPC+December+2023+AI+Submission.pdf>

^{xiv} <https://www.ethicallyalignedai.com/about-1>

^{xv} <https://cdec-cdce.org/en/publications/unesco-reflection-group-on-the-digital-the-coalition-for-the-diversity-of-cultural-expressions-delivers-its-recommendations/>