CANADIAN
PUBLISHERS'
COUNCIL

Canadian Government Consultation on AI
Response to On-line survey – January 15, 2024

Executive Summary

The Canadian Publishers' Council (CPC) submitted its Consultation paper to the Canadian Government in January of 2024. The paper outlines areas of critical concern regarding the implications of Artificial Intelligence (AI) for Copyright, its impact on Rights Holders, and in particular the opportunities and threats posed by Generative AI and Large Language Models (LLM). Stakeholders for this important consultation include participants on both sides of the issue: both technology firms such as Microsoft and Alphabet, proprietors of LLMs, as well as Federal Government policy officials and all participants in the Writing and Publishing sector in Canada and around the world. Governments everywhere are considering the appropriate safeguards to establish to harness the opportunities AI brings while protecting Rights Holders. (CPC's Consultation paper cites many instances of what it considers progressive legislation to regulate AI development, with Europe being a prime example.)

The principal concern among Rights Holders, in the Creative Sectors broadly and in Writing and Publishing in particular, is the whole-scale ingestion of copyright-protected works for the purposes of training LLMs. Well over 200,000 Canadian books have been ingested to date into generative AI engines by Meta, Bloomberg and others. This list, uncovered by a Freedom of Information request made by *The Atlantic* magazine, includes every significant Canadian best-seller as well as a long 'backlist' of Canadian titles. None of the underlying Rights Holders—neither writers nor publishers—were contacted in advance for permission to use their works, nor was any comprehensive attempt made to negotiate licences and compensation for use of these works. In the view of Rights Holders, this is a fundamental infringement of Copyright, while technology firms exploiting the work for training have suggested they are protected by a "Research" exception under Canadian copyright law.

At the root of this disagreement is whether ingestion of a copyright-protected work for LLM training, in and of itself, violates copyright and, further, whether works subsequently generated by LLM output are themselves further examples of copyright violation. It is the view of Rights Holders, including CPC and a host of other publishing groups such as American Publishers' Association (AAP) and the International Publishers' Association (IPA), that indeed these acts are in clear violation of copyright.

To address this growing concern, CPC and its key partners (The Writers' Union and Association of Canadian Publishers are two) have urged the Federal Government to introduce three critical principals into Copyright law:

1. Technology firms that ingest copyright-protected works into LLMs for generative AI training must disclose to all interested parties—and Rights Holders in particular—the works they are using, and permission for such use must be sought and agreed in advance;
2. No exception to copyright protection for Text and Data Mining (TDM) should be introduced, as such a blanket exception would only further enable a fundamental abuse of copyright by technology firms;
3. No Compulsory Licencing regime should be established; rather, market forces should determine the appropriate terms for licensing and compensation to Rights Holders for use of their works in Generative AI.

With these core principles, CPC believes the groundwork will be set for the productive development exploitation of AI in Canada, work that will be guided by law that is respectful of Rights Holders and safeguards their exclusive rights to content. CPC and like-minded participants in the Creative sector—ACP, TWUC and their Quebec-based French language counterparts ANEL and UNEQ—will continue to advocate for these critical measures to be taken in the months ahead as Bill C-27 and its AIDA component are reviewed by the Federal government in Ottawa.

It is important to emphasize that publishers and other Rights Holders do themselves use AI to make their content more useful, and its creation more efficient, and CPC members continue to engage with customers and stakeholders on how mutual use of AI can bring greater value to their relationships.

[Read more about the CPC's response to the Canadian government consultation on AI](#).