



Australian Writers' Guild
Australian Writers' Guild Authorship Collecting Society

Submission to NSW Legislative Council inquiry into data centres
11 March 2026

The Australian Writers' Guild acknowledges we live and work on Aboriginal land. We pay our respects to Elders past and present. We thank them for their custodianship of land and waterways, stories, and song, and pay our respects to the oldest storytelling civilisation in the world.

WHO WE ARE

The Australian Writers' Guild (**AWG**) represents Australia's performance writers: playwrights, screenwriters for film and television, showrunners, podcasters, comedians, game narrative designers, dramaturgs, librettists, and audio writers. We represent 2,600 performance writers in Australia. Established by writers for writers, the AWG is a democratic organisation run by its members, who each year elect a National Executive Council and State Branch Committees. Our members work together to represent their fellow writers across the industry in a number of committees such as the Theatre, Television and Games committees to negotiate for fair pay and conditions, advocate to government, and serve members' professional needs.

The Australian Writers' Guild Authorship Collecting Society (**AWGACS**) is a not-for-profit collecting society for screenplay authors. With more than 2,000 members and 32 partnerships with overseas collective management organisations, AWGACS has collected more than \$25 million in secondary royalties and distributed the monies owed to screenwriters from Australia, New Zealand and around the world. AWGACS continuously advocates for the rights of authors to ensure they are fairly remunerated for the secondary exploitation of their works. Since its inception, AWGACS, the secondary royalty collection society for Australian and New Zealand screenwriters and authors, has collected and distributed over \$33 million to creative workers.

Generative artificial intelligence technology (**AI**) has been built on the stolen property of Australian screenwriters, playwrights, authors, artists, composers and musicians, all knowingly infringed by bad-faith actors. Foreign tech companies have – by their own admission – reproduced copyrighted material without permission from their original authors in order to develop a commercial product. In copyright infringement proceedings overseas, these companies have conceded that their models rely on the unauthorised and unremunerated use of copyrighted work, with OpenAI stating it would be ‘impossible to train today’s leading AI models without using copyrighted materials’. The tech companies have committed targeted, deliberate, and malicious copyright infringement. Offshore tech companies have flaunted our copyright laws and continue to do so without penalty. Our opposition to AI is a matter of public record and we have engaged extensively with government on this issue.

Australia’s strong copyright framework is a sound basis for the continued growth of local Australian content and the future growth of Australian intellectual property. Our creative industries are billion-dollar industries, and Australian audiences want more of what we make. It is contrary to our economic and cultural interests to allow or facilitate theft of our work by foreign companies, or exploitation of creative workers here. Government must ensure that our existing laws are applied to this blatant theft of work, now and into the future. We seek only the enforcement of existing Australian copyright law: that the infringing parties are penalised and made to rectify the harm caused to Australian copyright owners.

While many of these issues must be addressed at a federal level, we know that the NSW government is aware of them. In its response to the 2024 “Artificial intelligence in New South Wales” report, the NSW government supported the recommendation that it should “advocate to the Australian Government for greater protection of the copyright and intellectual property of those working in creative industries in light of the challenges presented by generative artificial intelligence.” It also acknowledged “the importance of considering copyright issues when navigating this technological environment, particularly where the training and development of AI systems draw upon protected inputs that were not created by the AI developer.”

The underlying copyright infringement that is so fundamental to the development of AI and, specifically, Large Language Models (LLMs) is relevant context for the present inquiry. It is the reason why we do not believe this technology is something that needs to or should be subsidised by NSW taxpayers – or any Australian taxpayer for that matter. Copyright infringers should never be recipients of public money – in the same way that no form of

breaking of the law should be enabled or facilitated by government. It is not the government's role to make life easier for tech companies, to reduce their operating costs, or assist them in any other way in developing technology with unproven productivity benefits and plain social detriments. Government's role is to enforce existing laws and protect the legitimate rights of workers. It is to ensure that any Australian AI technology that is developed is put to genuinely beneficial, rather than harmful and/or commercial, purposes.

The basis of LLMs is mass infringement of copyright, moral rights and, in the case of First Nations' artists, Indigenous Cultural and Intellectual Property (ICIP). Most Australian creative workers – some of whom make less than the minimum wage for their creative work – are unable to afford legal action against the likes of Google, Meta and Amazon to enforce these rights (where they are legally enforceable at all). Any governmental support for the development of data centres in NSW is a contradiction of the principles set out in the National Cultural Policy, *Revive*, and the NSW Cultural Policy, *Creative Communities*.

Finally, generative AI also presents a problem for unsuspecting users of the technology. Individuals and businesses using generative AI technology built on infringed work should have concerns about their secondary liability for copyright infringement, and it is the job of AI developers to offer this assurance, not government.

It should also be noted, as the Committee may be aware, that the NSW Government is currently in the process of selecting a site for a second NSW film studio. There is competition for land in NSW, particularly in metropolitan areas. Data centres compete with housing, essential services locations, public transport, and film studios for scarce land. It is our view infrastructure with proven economic benefit (like film studios) should be prioritised over data centres.

There are many other reasons why AI data centres (environmental, social) should not be developed in NSW, but we will generally confine our comments to those issues raised above as they fall within our expertise.

Claire Pullen

Group CEO

Australian Writers' Guild

Australian Writers' Guild Authorship Collecting Society

1. The assumed “economic benefits” benefits of AI

This inquiry is predicated on the idea that Generative AI has certain benefits – including economic and productivity benefits – that need to be weighed against its risks and detriments. It seeks views on the “economic benefits of data centre development” in its Terms of Reference. The copyright infringers are actively involved in work to reduce their litigation risk profile, including a dedicated and sustained lobbying and propaganda campaign about the supposed benefit of their conduct. We have no doubt that the proponents of and investors in AI – i.e. those with the greatest incentives to hype it – will make submissions to this inquiry pointing to the technology’s economic and productivity benefits. These claims are dubious and untested, rarely interrogated or put to any evidence.

We have engaged with the Productivity Commission and the Attorney General’s Department on these issues and have urged them not to take the supposed economic benefits of AI for granted especially when those claims come from stakeholders with vested interests.¹ Many recent studies have shown that the analysis of the productivity benefits of Generative AI fails to account for the **reduction** in productivity that will result from users needing to verify outputs: a recent Harvard Business Review study has suggest that Generative AI will have limited/no impact, or even negative impact, on productivity² and a study from the University of Auckland makes similar findings in the context of legal practice and education.³

The Harvard Business Review study examines the phenomenon of “workslop”: “AI generated work content that masquerades as good work, but lacks the substance to meaningfully advance a given task.”⁴ In a survey of 1,150 U.S.-based full-time employees across industries, survey participants reported that an average of 15.4% of the content they receive at work fit the definition of ‘workslop’. The authors of the study observed that when “coworkers receive workslop, they are often required to take on the burden of decoding the content, inferring missed or false context. A cascade of effortful and complex decision-

¹ See our submission to the Productivity Commission ‘Harnessing data and digital technology’ interim report here: <https://awg.com.au/content/uploads/Final-ASIG-joint-submission-to-Interim-Report-for-website.pdf>

² Kate Niederhoffer et al, “AI-Generated Workslop Is Destroying Productivity,” *Harvard Business Review*, September 2025, <<https://hbr.org/2025/09/ai-generated-workslop-is-destroying-productivity>>

³ Joshua Yuvaraj, *The Verification-Value Paradox: A Normative Critique of Gen AI in Legal Practice*, University of Auckland Faculty of Law Research Paper Series, 2026; forthcoming in (2026) 52 *Monash University Law Review*, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5621550>.

⁴ Niederhoffer et al, 2.

making processes may follow, including rework and uncomfortable exchanges with colleagues.”⁵

In our industry, the impacts of the use of AI as a ‘creative’ tool are almost certainly a net negative. As Cropley has found, AI is at best equivalent to the output of the non-creative - this is, it is worse in its outputs than professional creators such as writers⁶. Moreover, as Doshi and Hauser found, it reduces the overall novel output, creating what they call a ‘social dilemma’ of reduced overall collectively creative stories⁷.

The flat negative impact that AI will have on our economy – particularly our creative economy – is insufficiently examined. In 2023, Australian screen and theatre sectors contributed nearly \$1 billion worth of value in the Australian economy, comprised of \$121 million in theatre ticket sales⁸ and \$930 million in screen productions (both television and movies).⁹ The uptake of artificial intelligence threatens to erode this economic activity. To use the example of writers (as categorised by the Australian Bureau of Statistics), there are approximately 6,000 authors, screen writers, script and book editors in Australia, earning approximately \$553 million per year.¹⁰ At standard population growth levels, this industry would be expected to increase to 6,767 people over the next decade. However, if AI technology reduces jobs by even 5% per year, this industry will have approximately 2,690 jobs fewer than forecast, representing some \$1.8 billion worth of wages lost over the next decade.

The liability concern is also significant. Generative AI will only be useful to the degree that there is acceptance of liability for potential errors by the service provider using AI. In professional contexts, professional indemnity insurers will need to agree to insure doctors, lawyers, real estate agents and immigration advisors (for example) against negligence claims brought because of AI errors. When Deloitte was forced to partially refund the government for submitting a report full of AI hallucinations, liability was only limited because

⁵ Ibid, 3.

⁶ Cropley, D, “The cat sat on the...? Why generative AI has limited creativity”, *Journal of Creative Behaviour*, 59:4, December 2025

⁷ Doshi, A, and Hauser, O, “Generative AI enhances individual creativity but reduces the collective diversity of novel content”, *Science Advances*, 10:28, July 2024

⁸ Live Performance Australia, *Live Performance Industry in Australia: 2023 Ticket Attendance and Revenue Report*, 11 October 2024.

⁹ Screen Australia, *Drama Report 2023/24: Key Findings*, 11 April 2025.

¹⁰ Australian Bureau of Statistics, *Survey of Employee Earnings and Hours, May 2023 (customised report)*, 2024.

consulting is an unregulated industry. The same cannot be said for the legal or medical professions.

Even AI systems specifically developed for the legal sector can fabricate cases or legal 'facts' and some studies show error rates between 17% and 33%.¹¹ The Victorian Legal Services Board + Commissioner, together with other regulators (NSW, WA) have warned about the risks of using AI and confirmed that lawyers remain ethically responsible and liable for any AI output they choose to use.¹²

The Fair Work Commission has raised serious concerns about people using Generative AI to draft legal submissions in unfair dismissal / employment law cases.¹³ In at least one case, a self-represented litigant used ChatGPT to draft their unfair dismissal claim. The Deputy President of FWC strongly criticized this, saying that AI-generated advice "had no basis" and amounted to a "danger of relying on artificial intelligence for legal advice." This is a risk that we understand has already begun to translate over to NSW.

Generative AI, with its ability to produce plausible-sounding but false material, increases the risk of mistakes infecting the legal record, medical records, and the law because these 'hallucinations' cannot be detected easily without extensive verification. Even the most 'accurate' and recent models have hallucination risks and even OpenAI has admitted that they are part of the architecture of Large Language Models – the models **cannot stop hallucinating**.¹⁴

There are many reasons why AI should not be adopted at all – we might consider its negative impact on the environment,¹⁵ the emerging risks of AI-induced psychosis,¹⁶ and its

¹¹ Joshua Yuvaraj, "Lawyers Should Keep Counsel When It Comes to AI," *University of Auckland Newsroom*, 7 November 2025, <<https://www.auckland.ac.nz/en/news/2025/11/07/Lawyers-should-keep-counsel-when-comes-to-ai.html>>.

¹² Victorian Legal Services Board + Commissioner, "Statement on the Use of AI in Australian Legal Practice," 2025, <<https://lsbc.vic.gov.au/news-updates/news/statement-use-artificial-intelligence-australian-legal-practice>>.

¹³ David Marin-Guzman, "Fair Work Warns of Dangers of Using AI for Dismissal Cases," *Australian Financial Review*, 9 November 2025, <<https://www.afr.com/work-and-careers/workplace/fair-work-warns-of-dangers-of-using-ai-for-dismissal-cases-20251109-p5n8ut>>.

¹⁴ Adam Tauman Kalai, Ofir Nachum, Santosh S. Vempala, and Edwin Zhang, "Why Language Models Hallucinate," 4 September 2025, <<https://arxiv.org/abs/2509.04664>>.

¹⁵ Adam Zewe, "Explained: Generative AI's environmental impact." MIT News, 17 January 2025 <<https://news.mit.edu/2025/explained-generative-ai-environmental-impact-0117>>

¹⁶ Lucy Osler, "AI-induced psychosis: the danger of humans and machines hallucinating together" *The Conversation*, 18 November 2025 <https://theconversation.com/ai-induced-psychosis-the-danger-of-humans-and-machines-hallucinating-together-269850>.

threat to democracy¹⁷ – yet even setting all this aside, the problem with Generative AI is that it is not competent even at what is supposedly its intended function, which is to make workers more productive and reduce business expenses.

2. Workforce considerations

AI companies use artists' own works to train models that displace them in creative markets.

Generative AI technology is already being used by large game studios, as well as art departments in the screen sector, as a way to quickly generate visual content that would ordinarily be a task given to an entry-level practitioner.¹⁸ It has recently been used to replace visual effects (VFX) artists.¹⁹ Voice actors have reported losing more than 20 per cent of their income with the rise of voices created by AI, trained on those actors' own voices.²⁰ AI technology “threatens to herald wholesale shifts in creative markets and consumption, built on the labour of creators while in large part shifting market demand away from those creators.”²¹

This foreshadows how the creative industries as a whole will be affected by unregulated generative AI. There are already few opportunities for emerging creative workers to gain a foothold in a small local industry. It is intensely competitive, with few entry points.

One such entry point (for example) for screenwriters is the position of a ‘notetaker’ in a writers’ room (i.e. groups of writers that come together to develop a television series or workshop an episode script). Note-taking is an entry-level (paid) job that allows a new writer to contribute to a show and learn about the creative process from experienced writers. From here, notetakers may progress through a number of roles including script coordinator, staff writer, story or script editor, and eventually are given the chance to write their own script. All the steps prior are training for the next, and are the process by which show runners and senior writers hone their craft to produce the stories we love.

¹⁷ Virginia Eubanks, “AI has a democracy problem — here’s why”, *Nature*, November 2025, <https://www.nature.com/articles/d41586-025-03718-w>

¹⁸ See, eg, the use of AI for props in screen productions, Adrian Horton, ‘Where Do We Draw the Line on Using AI in TV and Film?’, *The Guardian* (online, 20 April 2024).

¹⁹ Mark Sweney, “[Netflix Uses Generative AI in One of Its Shows for First Time.](#)” *The Guardian*, 18 July 2025

²⁰ Garry Maddox, “[Forgive Me If I’m Not Doing Cartwheels: Scepticism Over AI Payment Breakthrough.](#)” *The Sydney Morning Herald*, 18 August 2025.

²¹ Dr Joshua Yuvaraj, ‘*Reforming Australian Copyright Law to Address Artificial Intelligence Training: Response to the Productivity Commission’s Interim Report (Harnessing Data and Information Technology, August 2025)*’ 24.

If writers' rooms are recorded and automated, note-taking will be the first role to be cut, thus eliminating one of the few possible entry-points into the industry that new writers still have. This phenomenon will repeat many times across the screen and interactive sectors – affecting emerging writers and narrative designers, directors, actors, designers, composers, cinematographers, screen and sound editors – and the professional development of the next generation of Australian creative talent will be stunted as AI becomes more and more commonplace.

Generative AI will undermine the ambitious goals set in *Revive* and *Creative Communities*. If left unfettered, we suspect that it will be used to replace and devalue creative workers and produce ever-more derivative content that exploits consumers. The long-term impact of this will be felt in terms of our cultural sovereignty, and our economy. Why film on location if you can artificially generate 'the Outback' or a 'quintessential Aussie beachside village'? Why employ Aussie actors when you can generate images instead, and not pay a worker? There are unlikely to be high-quality competitive offerings if everyone has access to similar technology and uses it in a race to the bottom. Why employ a composer, or an editor, or a dramaturg, when you can copy someone else's work, feed it into a program that works anywhere in the world, and sell that output?

Leaving aside the substantive issues around harm to our industry, and workers, AI has no work to do in replacing creative workers. We have an available, trained and skilled workforce, ready to be put to work.

3. Secondary liability risks for end-users

There is also the question of the end-user's secondary liability for copyright infringement. As it stands, the ongoing possibility of copyright infringement – and a lack of ownership over outputs – is a liability for any AI company, any investor, and any third-party user of that technology and is rightly seen as a huge barrier to businesses being able to confidently adopt the technology. It should be noted that in its litigation response to Disney, Midjourney has asserted that users are ultimately responsible for any copyright infringement, not the company deploying AI itself; surely an unacceptable risk for any business or citizen to take on, and not one government should be encouraged to facilitate.²²

²² Aaron Moss, "[Why the Studios' Midjourney Lawsuit Is Different](https://copyrightlately.com/why-the-studios-midjourney-lawsuit-is-different/)." *Copyright Lately*, 15 June 2025 <<https://copyrightlately.com/why-the-studios-midjourney-lawsuit-is-different/>>

A German judge has held that ChatGPT stores and reproduces copyrighted song lyrics and thereby infringes the copyright of the owners of those works. OpenAI, the respondent in that case, claimed that these uses were covered by the German text and data mining exception, but this argument was not accepted. It was held that **both** OpenAI and the end-user of ChatGPT was liable for copyright infringement.²³

As it stands, the ongoing possibility of copyright infringement – notwithstanding the lack of ownership over outputs – is a liability for any AI company, any investor, and any user of that technology. It should rightly be seen as a huge barrier to businesses being able to confidently adopt the technology or to advertise or sell such a product in Australia. This risk is ongoing, as AI companies offer no assurances they will protect the copyright of any business documents input as part of generating a business email, for example.

To respond to this risk AWG and AWGACS have introduced a workplace policy prohibiting staff members from using AI due to these risks (among other reasons). In part as a response to this uncertainty and consistent with our policies, AWG members who register their scripts with AWG must warrant that they are the owners of copyright in those scripts **and** that generative AI technology has not been used at any point in that scripts' development. Screen funding bodies have begun to implement a requirement that AI is not used in creative processes as a condition of funding, and we support that.

Publicly available LLM tools are aware of this risk and are seeking to shift the entirety of it only consumers. OpenAI, for example, tries to avoid liability with ChatGPT's Terms of Use:²⁴

What you cannot do. *You may not use our Services for any illegal, harmful, or abusive activity. For example, you may not:*

Use our Services in a way that infringes, misappropriates or violates anyone's rights.

²³ Deborah Cole and Philip Oltermann, "ChatGPT Violated Copyright Laws, German Court Rules," *The Guardian*, 11 November 2025, <https://www.theguardian.com/technology/2025/nov/11/chatgpt-violated-copyright-laws-german-court-rules>

²⁴ OpenAI Terms of Use: <https://openai.com/en-GB/policies/row-terms-of-use/>

Further, in the 'Indemnity' section:

If you are a business or organization [sic], to the extent permitted by law, you will indemnify and hold harmless us, our affiliates, and our personnel, from and against any costs, losses, liabilities, and expenses (including attorneys' fees) from third party claims arising out of or relating to your use of the Services and Content or any violation of these Terms.

Ordinary citizens cannot be expected to have a full grasp of the nuances of copyright law when they use a service like ChatGPT or Claude, and thus there is a role for government to play here in ensuring these services can only be accessed by Australians where they comply with Australian law. Government should, at minimum, intervene to protect end-users from this copyright infringement liability. Where a product is available in Australia, Australian users should be able to be assured that the product complies with Australia law and is not exposing them to liability or risk.

4. Secondary liability for funding agencies

Screen NSW Terms of Trade states at clause 1.2 that:

"Screen NSW also expects all recipients of funding support to act fairly and reasonably in relation to third parties involved in the funded project. Fairness and reasonableness include:

Paying at least award minimum rates or, where applicable, any minimum agreed between the relevant guilds, for all work performed by third parties on their project, including Key Creatives, cast and crew;

Respecting the rights of all relevant persons, whether those rights be copyright or other intellectual property rights, moral rights or Indigenous Cultural and Intellectual Property rights."

As the Committee would be aware, the majority of businesses that employ Australian creatives are at least partially reliant on state and federal government funding and tax concessions. It is a key enforcement tool not available in many workplaces.

Clause 1.2 of Screen NSW's terms of trade clearly intends to ensure that funding recipients must respect the intellectual property rights of third parties and ensure that creative workers are fairly remunerated for the exploitation of their intellectual property.

Any funding recipient that uses AI as a replacement (in whole or in part) for work that has traditionally been done by a creative worker necessarily contradicts these terms of trade. We argue that these problems can be avoided if the federal and state funding agencies deny funding to any creative projects that use AI technology as a replacement (in whole or in part) for work that has traditionally been done by a creative worker at least until the copyright concerns raised in this submission are addressed by government. Any person or company applying for government funding must, throughout the grants process, have obligations to actively disclose any use of AI technology.

In previous consultations we have recommended the following:

- **No state funding for AI projects:** State and territory funding agencies must not fund any creative projects that use AI technology as a replacement (in whole or in part) for work that has traditionally been done by a creative worker at least until the copyright concerns raised in this submission are addressed by the federal government.
- **Active disclosure:** Any person or company applying for Screen NSW funding must, throughout the grants process, have obligations to actively disclose any use of AI technology.
- **Transparency:** Any creative content, including audio-visual content that is created with the assistance of AI, must include declaration that artificial intelligence technology has been used. This must be applied broadly not just to – for example – scripted performance content but advertising, especially political advertising. Active transparency to inform consumers should be the overarching goal.