**Productivity Commission submission**

By: Life Stories Australia Ltd

Life Stories Australia Ltd (LSA)[[1]](#footnote-1) is an association of professional life story tellers who record and preserve the history and stories of individuals and organisations, including businesses and sports clubs.

The members of LSA are journalists, writers, editors, podcasters, genealogists and video makers, each of whom individually contributes a wide range of experience and creative skill to his or her work.

Our members have embraced some AI technology to streamline our workflow, such as using transcribing tools to create a first draft of our interviews. Others are developing techniques to make telling a life story more accessible and affordable to more clients.

However, aspects of the ***Interim Report – Harvesting data and digital technology*** have alarmed us, especially the following statements:

* “There is evidence to suggest that large AI models are already being trained on copyrighted materials without consent or compensation …” (p. 25)
* “amending the Copyright Act to include a fair dealing exception that would cover text and data mining.” (p. 25)
* “the PC is considering whether there is a case for a new fair dealing exception that explicitly covers text and data mining (a ‘TDM exception’). TDM exceptions exist in several comparable overseas jurisdictions … Such an exception would cover not just AI model training, but all forms of analytical techniques that use machine‑read material to identify patterns, trends and other useful information (p. 27).”

**Request 1.1: “Are reforms to the copyright regime (including licensing arrangements) required? If so, what are they and why?”**

Below are the following observations regarding our industry:

* The Copyright Act (1968) ensures that creatives earn a proper income from their work, as politicians and productivity commissioners do. If the copyright laws are changed to allow AI to access our work without acknowledgement or payment, we will lose income, making us **less** productive.
* Copyright laws vary from nation to nation. For instance, in the book publishing world, there are three global zones. A book published in both the US and Australia would come under different copyright laws in each zone. If overseas publishers knew their publications were being mined for data in Australia, they might not wish to publish in Australia, meaning fewer authors would publish here, leading to **less productivity.**

One solution to this could be the PC’s recommendation regarding copyright licensing: “Licensing is the key mechanism through which a copyright holder grants permission for others to use their work and often involves some form of payment (pg. 25).”

We ask, when considering any proposed copyright payment scheme, that it be made watertight, given the tech industry’s long-standing default of finding ways of avoiding payment for anything from which they derive an income (sheltering in tax havens etc).

**Request 1.1: “How would an exception covering text and data mining affect the development and use of AI in Australia? What are the costs, benefits and risks of a text and data mining exception likely to be?”**

The exception proposed in the *Interim Report – Harvesting data and digital technology* would affect our members and industry as follows.

* LSA members record life stories of individual clients and organisations. It is a legal requirement for us to submit our published work to the national and relevant state libraries under the Legal Deposit scheme. This adds to the fabric of oral histories in Australia. Published work, already submitted, may have access caveats on it, but often the work is available for borrowing for scholarship from the time it is submitted. We would need to inform our clients that any publication submitted to the Legal Deposit scheme could be mined for its data. This would have the tendency to discourage some clients from telling their story and having it published, making us **less** **productive**.
* Trust between LSA members and our clients is a major factor in our work. Some of the life stories we have recorded were given on the proviso they would be unavailable until a person’s death and we will need to continue to be able to give this guarantee of privacy to our clients. Our clients’ life stories are often intensely personal and could even give clues to a person’s passwords. Allowing DTM to use these stories to train AI would breach not only our clients’ confidentiality but also potentially put interviewees at risk of a cybersecurity breach. We rely on referrals to continue our work so any breach of trust would harm our reputations and could lead to the possible closure of our businesses and the **end of our productivity**.
* Generative AI cannot understand humour nor engage with hyperbole. AI is a computer program that will not be able to generate these things in the foreseeable future. We record people’s stories in their own voice, using their humour and hyperbolic tendencies. In trying to “learn” from this content, AI can and does interpret some content as errors and may produce content that includes hallucinations.[[2]](#footnote-2)

For the above reasons, we urge that creative content so far protected by copyright law should continue to be protected by the same copyright law. We recommend that creative work such as life stories not be included in DTM for AI training purposes, and that DTM should not be applied without the acknowledgement and agreement of all authors, their clients and family members and those named in each life story.

We also recommend that publishers have to actively approve the use of their publication for data mining in the Legal Deposit scheme. Also, that the payment for such a copyright “gift” be paid in advance and be fair compensation, to be revisited every three years.

We believe amending the Copyright Act to include a fair dealing exception that would cover text and data mining would have a negative impact on LSA members’ productivity and would result in the closure of many small businesses in the life stories and publishing industries.

Susan Pierotti

Secretary

Life Stories Australia

A close up of a logo

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1. https://lifestoriesaustralia.com.au/ [↑](#footnote-ref-1)
2. Source: <https://en.wikipedia.org/wiki/Hallucination_(artificial_intelligence)> [↑](#footnote-ref-2)