



**NATIONAL
ASSOCIATION
FOR THE
VISUAL ARTS**

Select Committee on Adopting Artificial Intelligence (AI)
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Parliament House
Canberra ACT 2600

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May 2024

Re: Select Committee on Adopting Artificial Intelligence (AI)

NAVA welcomes the opportunity to respond to the establishment of a Select Committee on Adopting Artificial Intelligence (AI).

The National Association for Visual Arts (NAVA) acknowledges the Gadigal, Wangal, Dharug, Dharawal, Ngannawal, Ngambri, Dja Dja Wurrung, Kabi Kabi and Jinibara peoples as the Traditional Custodians and knowledge-holders of the lands on which we live, learn and work.

The NAVA community is based across hundreds of sovereign Nations and unceded lands throughout the continent that has become colonially known as Australia. NAVA pays our deepest respects to all Custodians of Country to whom these lands belong.

We acknowledge Aboriginal and Torres Strait Islander peoples as the first artists and storytellers on this continent, and pay respect to First Nations communities' ancestors and Elders.

Sovereignty was never ceded. Always was, always will be Aboriginal land.

The words 'Aboriginal and Torres Strait Islander', 'Indigenous' and 'First Nations' are used in this document to refer to both Aboriginal and Torres Strait Islander peoples, and global First Nations artists in the Australian arts and culture sector. Although the usage of these words is complex, and some First Nations peoples may not be comfortable with some of these words, we use them to reflect the variety of terminology that First Nations peoples may identify with throughout this continent. We would like to make known that only the deepest respect is intended in the use of these terms.¹

¹ This note on terminology is adapted from a section by Georgia Mokak, 'Change the Conversation From Surviving to Thriving', <https://visualarts.net.au/news-opinion/2019/change-conversation-surviving-thriving/>, 2019.

About NAVA

The National Association for the Visual Arts (NAVA) is an independent membership organisation which brings together the many voices of the visual arts, craft and design sectors to improve the fundamental conditions of work and practice. We do this through advocacy, education and promotion of the Code of Practice for the Visual Arts, Craft and Design. Our network comprises over 50,000 artists, arts workers, galleries, arts organisations and industry bodies. Since its establishment in 1983, NAVA has been influential in bringing about policy and legislative change to encourage the growth and development of the visual arts sector and to increase professionalism within the industry.

NAVA has participated in roundtables held throughout 2023 with the Attorney-General's Department (AGD) and key industry stakeholders to discuss several proposed changes to copyright and Artificial Intelligence (AI) regulation, and is a current member of the Copyright and Artificial Intelligence Reference Group (CAIRG), also run by the AGD. NAVA also joined 20 co-signatories from the creative industries, on letters to the Hon Tony Burke MP, Minister for the Arts; Hon Michelle Rowland MP, Minister for Communications; and Hon Ed Husic MP, Minister for Industry and Science on behalf of Australian creators, artists, creative industries and rights holders' raising concerns with generative artificial intelligence platforms, products and services.

NAVA has been engaged as a partner organisation for the Australian Research Council Linkage Project (LP210300009) 'Empowering Australia's Visual Arts via Creative Blockchain Opportunities' - led by A/Prof Brian Yecies at the University of Wollongong.

NAVA is currently undertaking a collaborative series of good practice conversations on the use and impacts of AI on work and practice in visual arts, craft and design, and will be engaging experts and participants with follow up surveys to gather further data. The topics include AI and Indigenous Cultural and Intellectual Property (ICIP), AI and Copyright, and AI in Arts Practice.

Terms of Reference

NAVA welcomes the establishment of a Select Committee on Adopting Artificial Intelligence (AI).

In this submission NAVA will be responding to following reference points:

1. recent trends and opportunities in the development and adoption of AI technologies in Australia and overseas, in particular regarding generative AI;
2. risks and harms arising from the adoption of AI technologies, including bias, discrimination and error;
3. emerging international approaches to mitigating AI risks;
4. opportunities to adopt AI in ways that benefit citizens, the environment and/or economic growth, for example in health and climate management;
5. and opportunities to foster a responsible AI industry in Australia.

Generative AI - recent trends and opportunities

As AI continues to evolve, its integration into various facets of art work and practice has become increasingly prevalent. From aiding in the creative process to exploring new avenues for income generation, the utilisation of generative AI holds significant potential for artists worldwide.

In July 2023, NAVA and Arts Law Centre of Australia, supported by the Australian Society of Authors, sought to better understand the impact of AI on artists' work. A comprehensive survey was conducted, revealing insights into what regulation should be considered around AI platform development and output.

Nearly 40% of survey acknowledged incorporating generative AI into their creative process, whether it be leveraging AI for written tasks such as editing and grant applications through ChatGPT or harnessing its capabilities for content development and ideation. Furthermore, 86% of respondents attributed approximately 10% of the final work directly to the influence of generative AI.

In a report released this month, [Artists as Workers: An Economic Study of Professional Artists in Australia](#), authored by David Throsby and Katya Petetskaya and commissioned by Creative Australia, artists from all arts sectors were asked about the impact of new technologies on their livelihoods. The report stated:

We see that two-thirds of artists think it is likely or very likely that indeed more income-earning opportunities will open, and one-third of artists see these prospects as potentially yielding income-earning possibilities for themselves in their PAO [Principal Artistic Occupation]. Visual artists and craft practitioners are the most optimistic among the art forms, with 74 and 80 percent respectively expecting that these developments are likely or very likely.²

Artists are already using generative AI and new technologies in many aspects of practice and business and they see its potential for increasingly diverse opportunities and income streams.

Risks and harms

While AI presents a world of creative and supportive potential for artists, it also poses significant challenges regarding copyright, consent, creative/cultural autonomy, Indigenous data sovereignty and labour rights.

In a 2023 survey conducted by NAVA and Arts Law, artists were questioned about unauthorised usage of their creative work on generative AI platforms. Results showed that 11% of respondents said yes, 28% said no, while 61% were uncertain. These results indicate ongoing copyright infringements and a lack of transparency regarding the use of creative work in generative AI input and training.

Despite concerns raised by artists, none of the four respondents who confronted AI platforms about unauthorised usage received any response, indicating a dismissive attitude towards artist concerns. While this sample size is limited, it raises alarms about the platforms' disregard for artist rights.

While existing laws provide some level of copyright protection to artists, and there are some avenues by which they can stop unpermitted use and recover payment, the scale of ingestion

² David Throsby and Katya Petetskaya (2024), Artists as Workers: An Economic Study of Professional Artists in Australia, Department of Economics: Macquarie University; p.135.

and output of copyrighted materials by generative AI platforms presents a new magnified challenge that cannot be resolved by individual creators on their own.

Apart from clear cases of infringement there are increasing concerns in the visual art, craft and design sector with regard to the perpetuation of fake First Nations art.

The Productivity Commission's 2022 report, [Aboriginal and Torres Strait Islander Visual Arts and Crafts](#), notes:

Inauthentic Aboriginal and Torres Strait Islander arts and crafts — which include Indigenous-style products created by non-Indigenous people, products that use Indigenous Cultural and Intellectual Property (ICIP) without the authorisation of traditional custodians, and products that infringe copyright — are a pervasive and longstanding problem.

- *Non-Indigenous authored products accounted for up to \$54 million of spending, representing well over half of total spending on Aboriginal and Torres Strait Islander souvenirs in 2019-20.³*

First Nations artists in Australia are already harmed by the physical reproduction of Aboriginal and Torres Strait Islander arts and crafts by non-Indigenous people on a large scale, generative AI platforms offer a faster and easier method of output.

Emerging international approaches

With regard to the responsible adoption of AI, NAVA supports a similar approach to that of the United Kingdom (UK):

- Statutory compliance of cross-sector AI-specific principles (in Australia, the AI Ethics Principles)
- An emphasis and strategy that delivers greater transparency
- A toolkit to assist organisations to assess the risks to individual rights and freedoms caused by their AI models and platforms

While the above model is recommended by NAVA as a first step, we are aware that this is a national-based approach for a global movement that stems from regions with different copyright laws, competition laws and consumer expectations. It will be critical for the Select Committee to understand how Australia's own laws may be leveraged to the advantage of citizens when addressing any harms perpetrated or perpetuated by AI developers, deployers or distributors in other jurisdictions.

Benefiting citizens through the adoption of AI

The applications and benefits of AI are clearly broad and far reaching, stretching across all industries. NAVA would like to take this opportunity to endorse the creative and cultural industries as a focus for the Select Committee as they undertake their work in leveraging the adoption of AI for economic benefit.

³ [Aboriginal and Torres Strait Islander visual arts and crafts Study report \(overview\)](#), November 2022.

In the recently released Petetskaya and Throsby economic report, *Artists as Workers*, key findings show that a significant portion of visual artists and craft practitioners are among the lowest-paid, with over a quarter earning less than \$10,000 annually from their creative work. Further, the report highlights persistent sector challenges, including gender inequality in income and career opportunities, and concerns regarding artists' rights and control over their work.

These concerning statistics signal challenges for future artistic and cultural expression by Australian artists.

As highlighted in the trends and opportunities section above, artists and creators recognise the potential for AI to yield income-earning opportunities. We urge the Select Committee to leverage this potential by exploring the benefits and opportunities of AI within the Australian context, through the lens of protecting, supporting and elevating the creative and cultural industries and their copyrights.

Opportunities to foster a responsible AI industry in Australia

The NAVA and Arts Law AI Survey shows that 93% of respondents support the introduction of guidelines, regulations, and or a code of practice of legislative protections to regulate generative AI platforms. NAVA recommends [Australia's AI Ethics Principles](#) be broadly promoted and that industry leaders are encouraged to endorse and share these principles with their members and peers.

If individual artists are to gain the full economic benefit to which their creative endeavour entitles them, their intellectual property must be adequately protected against unauthorised exploitation or appropriation. The copyright held by some visual artists and craft practitioners in the works that they create contributes in varying degrees to their economic survival.⁴

Please do not hesitate to contact me for any further information I can provide.

Sincerely,

Georgie Cyrillo
Deputy Director, National Association for the Visual Arts

⁴ David Throsby and Katya Petetskaya (2017), *Making Art Work: An Economic Study of Professional Artists in Australia*, Department of Economics: Macquarie University; p.103.