

**Response to the Public Consultation Paper on the Copyright and
Artificial Intelligence issued by the Commerce and Economic
Development Bureau (“CEDB”) and the Intellectual Property
Department of the HKSAR**

Introduction

As a leading financial compliance consultancy, Studio AM Limited (“hereafter “Studio AM”) provides tailored solutions to navigate complex regulatory environments. Our expertise spans licensing, human resources, surveillance, KYC, crypto compliance, regulatory advisory, corporate training, CPD checking, and more. We focus on delivering compliance excellence to foster growth and innovation in the finance sector. This response addresses the issues outlined in the *Public Consultation Paper on Copyright and Artificial Intelligence* (the “**Consultation**”) and the proposed enhancements to the Copyright Ordinance (Cap. 528) (the “**CO**”) for the protection of artificial intelligence (“**AI**”) developments, with particular emphasis on how current and proposed regulations impact our services and the broader financial compliance landscape.

Adequacy of Current Copyright Ordinance for AI-Generated Works

We believe that the current Copyright Ordinance (Chapter 528) provides a strong and comprehensive framework for protecting AI-generated works. By classifying these works under the "computer-generated" category, the Ordinance ensures they receive the necessary legal protection. This protection is essential in fostering innovation and incentivizing investment in cutting-edge AI technologies.

As a company that extensively uses AI for compliance monitoring and risk management, we consider this legal clarity vital for our operational confidence and continued market growth. The consultation paper highlights that the current law, in place since 1997, has successfully adapted to technological advancements, demonstrating its relevance to contemporary AI applications.

While we find the existing framework effective, we also recommend the introduction of clear guidelines on the ethical use of AI, ensuring compliance with all relevant intellectual property laws. Such guidance would further support businesses in navigating this evolving technological landscape responsibly.

Market Solutions, Contractual Arrangements and the Need for Regulatory Guidance

Our services frequently involve the development and management of AI-driven compliance tools for clients. We have observed that contractual agreements between AI developers, system operators and end-users effectively manage copyright ownership and usage rights. These agreements ensure that all parties understand their respective roles, rights and responsibilities, thereby minimizing disputes and fostering collaboration in technological advancement.

While contractual arrangements offer flexibility and clarity, we believe that regulatory guidance would further support the industry. Guidance from the relevant authorities could standardize best practices, particularly in complex areas such as copyright ownership in

AI-generated works and the ethical use of AI. This would ensure consistency across the sector and help businesses, like ours, navigate emerging legal challenges with greater confidence.

For example, in our projects, contracts delineate roles and responsibilities, which reduces the risk of conflict. However, clear regulatory guidance could further streamline these processes by providing a framework or even template, case scenario analyses that aligns with evolving AI technologies. Such guidance would not only prevent potential disputes but also encourage innovation by providing a clearer legal landscape for AI development and deployment.

Specific Issues Related to AI-Generated Works

1. Originality Requirement:

- We support the current stance that AI-generated works must meet originality requirements, assessed through the skill, labor and judgment of the person who arranged for the creation of the work. This ensures that AI-generated works receive protection without diluting the standards of creativity and innovation.
- **Recommendation:** We suggest that the relevant authorities provide clear guidelines on how originality in AI-generated works should be interpreted, particularly as AI systems become more autonomous. This guidance would ensure consistency in how courts and businesses assess the originality threshold in complex AI-generated projects..

2. Determining the Author and Owner:

- The definition of the author as the person who makes the necessary arrangements for creating the AI-generated work is practical and aligned with industry practices. It ensures that economic incentives are appropriately allocated to those who invest in and develop these technologies, supporting the growth of the AI sector.

- **Recommendation:** We propose that regulators introduce a standardized framework to clarify the scope of authorship and ownership in AI-generated works, especially in cases where multiple stakeholders (developers, operators, end-users) contribute to the creation process. This could include model contracts or case studies to guide businesses in structuring these agreements.

3. Practical Solutions Through Market Contracts:

- Our experience aligns with the consultation paper's findings that market contracts effectively resolve ownership and usage issues of AI-generated works. For example, when developing compliance systems for clients, clear contractual terms delineate the rights and responsibilities regarding any AI-generated content, ensuring smooth operations and legal compliance.
- **Recommendation:** While market contracts offer flexibility, we recommend that the relevant authorities issue best-practice guidelines or templates for contractual arrangements related to AI-generated works. This would help businesses navigate ownership and licensing issues more effectively, particularly for companies that are new to working with AI technologies

Proposed Copyright Exemptions

The proposed exemptions that allow for the reasonable use of copyrighted works for data analysis and AI model training are critical for the continued growth of the AI industry.

These exemptions will:

- Facilitate the development of more sophisticated AI models by enabling access to a broader range of data.
- Ensure that the AI industry in Hong Kong remains globally competitive by reducing barriers to innovation.

However, there is a concern that overly broad exemptions could erode the rights of copyright holders, limiting their ability to control how their works are used. To address this, there could be provisions allowing copyright owners to override the exemptions through **contractual terms** or **opt-out conditions**, thereby selectively restricting access to their works if desired.

- **Recommendation:** We propose that regulators introduce mechanisms allowing copyright owners to retain some control over their works. This could be achieved by providing an option for owners to set contractual terms that override exemptions or opt-out provisions, allowing them to restrict or permit the use of their works for AI training and data analysis. Such an approach would create a balance between encouraging innovation and respecting the rights of content creators.
- By allowing for contractual flexibility, the system would protect copyright holders' interests while ensuring that AI developers still have the ability to access and use data under clearly defined conditions.

Other Issues: Deepfakes and AI System Transparency

While deepfakes and AI transparency issues extend beyond the scope of copyright, they are relevant to our compliance services. We recommend that any regulatory framework considers:

- **Deepfakes:** Implementing stringent measures to identify and mitigate the misuse of AI in creating misleading or harmful content.
- **Transparency:** Mandating clear disclosure of AI system capabilities and limitations to ensure users understand the technology's scope and potential biases.

Invitation for Public Opinion

We believe that the existing Copyright Ordinance, supplemented by the proposed exemptions and continued reliance on market-based contractual solutions, strikes a balance between protecting creators' rights and fostering innovation in AI. However, **we encourage ongoing dialogue** with industry stakeholders to ensure that the legal framework evolves in line with technological advancements and market needs.

Conclusion

Studio AM Limited supports the Hong Kong Government's proactive approach to reviewing and updating the Copyright Ordinance in response to AI developments. We believe that maintaining a flexible and adaptive legal framework will ensure that Hong Kong remains at the forefront of innovation while protecting the rights of creators and encouraging investment in new technologies.

We welcome further discussions and are prepared to provide additional insights based on our extensive experience in compliance and AI-driven solutions.

References:

- Hong Kong Government's Copyright Ordinance
- World Intellectual Property Organization (WIPO) discussions on AI and IP
- Consultation Paper on Copyright and AI: [Commerce and Economic Development Bureau](#)

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