

Equity submission: A creative future
House of Lords Communications and Digital Committee inquiry

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About Equity

Equity is a union of more than 47,000 performers and creative practitioners, united in the fight for fair terms and conditions in the workplace. Our members are actors, singers, dancers, designers, directors, stage managers, puppeteers, comedians, voice artists, and variety performers. Our members work on stage, on TV sets, on the catwalk, in film studios, in recording studios, in night clubs and in circus tents.

Summary

The UK performing arts and entertainment industry is an undeniable global success story by any measure creatively and financially. Our live performance sector is thriving across every region and nation of the UK and a huge driver of inbound tourism, and copyrighted works in recorded media are disseminated around the world. The creative talent of our members is a driving force behind the strength of our industry, as well as the strong and equitable collectively bargained agreements reached between Equity and engagers,¹ such as those across film, TV and theatre.

¹ A person or business who engages self-employed individuals for work

As acknowledged by the Committee, there are significant changes on the horizon. Market developments and technologies continue to transform the production and publication of audio and audio-visual content, as well as audience viewing habits. The use of Artificial Intelligence (AI) is advancing significantly with commercial AI companies growing across all areas of the industry. These developments present exciting opportunities to enhance our members' working lives if applied ethically and responsibly. However, the entire industry must carefully consider the potential unintended consequences, and the creative workforce and their trade unions must be central to discussions regarding its implementation.

The government's current policy agenda also has the potential to significantly impact the workforce. Last year a new ten-year plan was announced to make the UK a global AI superpower. However, there is no desire to strengthen our outdated intellectual property framework, which is vital for ensuring performers can control the exploitation of their image, voice or likeness in the digital world. The government's vision for the broadcasting sector, which includes controversial plans to Channel 4 privatisation and reform the BBC funding model, will also affect the talent pipeline.

We are working hard to protect our members and ensure that the development of new technology recognises and rewards the contribution of our members to its success. Producers and engagers across the entire industry must engage with Equity through our collective bargaining process to ensure there is strong industry regulation in place that reflects ongoing developments in new technology. The government must also update the Copyright, Designs and Patents Act (1988) and introduce a new suite of intellectual property rights, including updated performer's right, moral rights, economic rights and image rights.

This inquiry also explores other key issues that will significantly affect the future of the creative industry over the decade, such as climate change, the skills gap, and ongoing issues around bullying and harassment. Not only do these areas require organisational adaptation but also urgent action from the government.

i. Areas that face the greatest potential for disruption and change

- ***Question 1. Which areas of the creative industries face the greatest potential for disruption and change in the next 5–10 years, and what impact could this have? a) What changes are expected in the way creative/cultural content is produced; the way audiences are engaged (for example through digital or immersive experiences); and the way business models operate?***

Artificial intelligence

The rapid development of AI presents significant disruption and change to the creative industries and its creative workforce. Although there is no single agreed definition, the government has defined AI as: “technologies with the ability to perform tasks that would otherwise require human intelligence, such as visual perception, speech recognition, and language translation.”ⁱ

Commercial AI companies can be found across all areas of the entertainment industry sectors including voice, visual arts, modelling, music, dance, journalism, and gaming. AI-made performance synthetisation is a key area in this development. This is defined by Dr Mathilde Pavis as the process of creating a synthetic performance often achieved by manipulating the likeness of a performance or a performer. ⁱⁱ There is a wide range of application that include:

- Text-to-voice & speech or image-to-voice translation or generation.
- Interactive digital humans or digital avatars capable of audio-visual interaction with users.
- Manipulation of existing identities in audio-visual content such as Deepfakes.

Modifying a performers' image, voice or likeness is not a new development. Filmmakers, for example, have used visual effects since the dawn of cinema to enhance stories by bringing to life believable characters, worlds, and stunts. AI used ethically and responsibly also has the potential to positively impact our members' livelihoods, the wider economy and society. For example, the use of interactive digital humans could allow performers to appear in multiple productions around the world across a single period boosting income levels. From an equality

perspective, the development of AI could increase accessibility to the labour market for our deaf and disabled members. There are potential safety benefits as AI could be used to enhance the work of stunt performers. AI technology can also potentially aid dubbing and automated dialogue replacement by matching an actors' mouth and facial movements to the dialogue they are speaking.

However, these technological developments are already replacing jobs for Equity members and there is significant concern that this will continue in the next 5–10 years. We conducted a survey which found that 65% of performers responding thought the development of AI technology poses a threat to employment opportunities in the performing arts sector. This figure rose to 93% for audio artists.ⁱⁱⁱ

The development of digital voice technology for automated audiobook creation is a real concern for our audio artist members. Audiobook narration is a human storytelling enterprise and a great deal of time and skill goes into recording an audiobook. However, the perceived value for automated audiobooks is a combination of cutting cost and increasing convenience. According to Bradley Metrock, CEO of Project Voice and of Digital Book World, in 12–24 months high-end synthetic voices will have reached human levels.^{iv}

Major tech companies, such as Google and Amazon, have invested significantly in AI research to develop high-quality text-to-speech technology to create virtual assistants and cloud services. AI companies around the world are using similar technology to develop speech synthesis for audiobooks. For example, DeepZen - Voices is an AI company based in London that clones and licenses human narrators. Murf AI is another company offering studio-quality voiceovers from their library of voices that can be produced in minutes without having to hire voice actors.

Deepfake technology has also developed significantly and will become even more sophisticated and accessible over the next decade. An amalgamation of artificial intelligence, falsification and automation, deepfakes use cutting-edge deep learning to replicate the likeness and actions of real people. Different types of deepfakes have emerged, such as full body, talking head models from a single photo, and audio deepfakes created using sample audio. We saw this technology used for the film *Rogue One: A Star Wars Story* (2016), which brought to life the deceased actor Peter Cushing, and Equity worked with the estate of the deceased to ensure Lucas Films paid for the use of his voice and image. The production of the documentary, *A Life Uncharted*, which was released a decade after the death of Gerry Anderson, also used deepfake technology to bring the deceased actor back to life. Alongside these higher budget productions, there are already various apps that can be downloaded for free or low-cost to utilize deepfake technology.

Whilst deepfake technology presents exciting opportunities for production teams, this rapidly developing landscape is creating opportunities for the abuse and exploitation. Deepfakes have received significant attention globally due to its malicious application. Our USA sister union SAG-AFTRA estimates that 96% of deepfakes are pornographic and depict women, and 99% of deepfake subjects are from the entertainment industry. It is also increasingly common for performers to have their image, voice or likeness used without their permission. For example, Canadian voice actor Bev Standing opened a lawsuit against TikTok's parent company ByteDance on the grounds of intellectual property theft. She claims that her voice, recorded as a translation job for the Chinese Institute of Acoustics three years ago, was used as a popular viral TikTok feature without her consent.^v

The quality of the contracts used to engage our members for AI work is a huge problem. Provisions are often very unclear about usage and simply request that the performer signs away their rights in perpetuity without explaining where or how their professional contribution may be exploited. These contracts are often very difficult to understand. Some of our members have accepted work to record their voice for data and research purposes for major AI voice developers, to then find out that they have assigned their rights to the end client who can use their voice and/or likeness beyond the scope of internal data and research, and for commercial ventures.

Pay is another issue. It is common for artists to not be fairly compensated when engaging with AI work. The one-off payments offered to our members often do not reflect the fact that their image, voice or likeness may be used forever and on thousands of projects. We are also seeing a negative impact on performers' regular income. Some of our members that have previously been engaged on the same production year on year and received an income on a per session basis, are now being asked by the same engager to replicate their voice for a one-off payment. Equity also deals with casework where our members have not been paid at all after working on an AI project. This is often because of a lack of clear auditing or companies being inadequately equipped to

demonstrate where an artists' performance may have been used. We believe there is a real lack of proper accounting for the usage of certain areas of work. This presents a real problem for Equity members who rely on ongoing payments as a substantial part of their income.

In addition, many performers engaging with AI work are being asked to sign non-disclosure agreements (NDAs) without being provided with the full information about the job. The use of NDAs is widespread across the industry and not limited to AI work, but also include film and TV production, games and commercials.

Streaming

Subscription Video On Demand (SVOD) is one of the fastest-growing and evolving business models for the delivery of audiovisual content over the internet. Other kinds of VOD are also quite popular, including free or advertising supported VOD, but the subscription-based model is by far the most successful. It is also the standard embraced by a few global platforms with a leading edge in the production of original content, which they make available to their customers alongside a large offer consisting of licensed, or acquired, repertoire. For some among these, SVOD is an ancillary but strategic tool, driving customers to their core retailing or hardware manufacturing business. This is the case, for instance, for Apple or Amazon. Others, like Netflix, are exclusively focused on the production and distribution of feature films, TV series and other audiovisual content.

Equity was the first union in the world to successfully negotiate a collective agreement with Netflix in 2019, which covers minimum rates, terms and conditions for performers working in episodic productions, feature length and animation. After securing our Netflix agreement, we now have direct agreements with Disney+ and Apple+ as well. These agreements cover all original productions made for exclusive use for these platform and are broadly similar.

We are very mindful about the evolving streaming landscape and any potential change that could take place in the next 5–10 years. Our priority is to ensure that our collective agreements are organic, adapt to the evolving landscape and can meet future challenges and changes. For example:

- Four-in-five UK households have a subscription. However, we could see market saturation of SVoD platforms and an accompanying decline in subscribers.
- With the major SVOD services producing an increasing amount of content to compete, we may reach a point where an abundance of options makes growth harder for all players. This was the warning from a recent US study from Hub Entertainment Research.^{vi}
- Ad-supported video-on-demand services are utilized daily by about 40 percent of connected TV viewers in the UK. We could see an increase in original production for AVOD platforms which may or may not be linked to the SVoD platforms.
- The UK indigenous film industry is also booming. Generally UK films have a budget between £3m-£5m. However, Netflix has stepped into that space with budgets of around £10m. Clearly the film producers will take this route. We could therefore see the impact of the financial clout of the streaming platforms on the UK indigenous film industry.
- We could see increasing interest from the streaming platforms and producers for extended theatrical exploitation. During the pandemic, Equity and other unions came to arrangements with producers to facilitate streaming. Demand is increasing to make it part of normal theatre landscape. Whilst Producers will welcome opening up new revenue streams, performance rights have to be compensated appropriately.

Business models for the production of audio-visual content is also transforming in other ways. One issue we are facing is the growing use of Special Purpose Vehicle Companies (SPV), also sometimes called a special purpose entity (SPE). These are subsidiary companies created for a specific project or business activity. An SPV is a separate legal entity with its own assets and liabilities, which don't appear on the parent company's balance sheet. A company creates an SPV to undertake a risky venture while isolating the risk. The streamers and other US entities predominately use SPV's. With the increase of US Productions in the UK Equity faces the challenge of transparency, where the platforms use SPV's as the contracting entity for performers. Equity UK is engaging with the platforms to secure clarity to identify who holds the rights in the productions once the SPV is dissolved.

This is crucial as we need transparency to whom the Union looks to honour any additional payments due beyond those pre-purchased.

[Climate change](#)

The human-caused climate emergency is the gravest threat we currently face, contributing to extreme weather events and loss of biodiversity across the globe. Global emissions continue to rise despite warnings of the dire consequences of exceeding 1.5°C warming and the need to halve global carbon emissions by 2030. The entertainment industry is a major contributor to the climate emergency generating carbon and greenhouse gases from transportation, travel, production material deliveries, onsite generators and even pyrotechnical scenes. According to the report *Screen New Deal*^{vii}, the average big budget film production produces 2,840 tonnes of CO2 equivalent and 3,709 acres of forest a year is needed to absorb this amount.

Climate change will require significant change to the way business models currently operate. Research undertaken by Act Green^{viii} has demonstrated that there is a high level of expectation from audiences that cultural organisations should be leading the way when it comes to sustainability initiatives. The same research also found that audiences are willing to play their part by getting involved in audience-focused initiatives from travel to food choices (see next section).

ii. Industrial action

- ***Question 4. What actions are needed from industry to support the talent pipeline development? a) What actions are needed from organisations in the creative industries to prepare for and accommodate the requirements of the future workforce?***

[Collective bargaining](#)

The strength of our industry is built on the strong and equitable collectively bargained agreements reached between Equity and engagers. The agreements in place across different sectors, such as film, TV, theatre, and dance, offer the best possible protection for the creative workforce by providing for the minimum terms and conditions for professional engagements. This industrial framework also provides a level of certainty for both the performers and the engagers and has created a landscape where individuals can flourish as workers. This has helped establish the UK as a centre of creativity and inward investment.

We also secure some ongoing payments for the exploitation of performers' work in the UK and globally through our industrial agreements. Equity's in-house Distribution Services, which has been operating for over five years, has paid out over £60 million in royalties and contractual secondary payments to tens of thousands of performers. All payments administered by the distributions team are derived from our collectively bargained agreements with broadcasters, film studios, TV production and theatrical recording companies.

The development of technology is already challenging the collective agreements we have in place. As mentioned previously, production teams are using AI to reanimate the image, voice or likeness of deceased performers. Not only does this raise ethical questions, but also challenges for performers' unions across the globe as this innovation would not be covered in historic collective bargaining agreements. Producers and engagers across the Film and TV industry must work with Equity to negotiate new provisions covering performance synthetisation and ensure there is a system of consent and payment when historic performances are utilised by AI technologies, including after the event of a members' death.

There are some areas of the entertainment industry where there are limited collectively bargained industry agreements in place, such as audio books, games, corporate work, radio commercials, TV, internet and digital commercials, modelling, and music videos. In these sectors where there is a lack of industry regulation, our members are often presented with take it or leave it contracts and asked to waive their moral rights and authorship entirely.

Producers and engagers across all areas including Audio, Games, Commercials must engage with the union, come to the table to negotiate new collective agreements. These agreements must ensure that our members

can control the exploitation of their image, voice or likeness in the ever-evolving digital world and are paid a professional wage that reflects their skill and talent. To achieve this, creatives must receive:

- A fair share of the money consumers pay for copyrighted content or where their rights are transferred, broadcast and/ or sold.
- Appropriate and proportionate remuneration when they license or transfer their rights.
- Up-to-date and comprehensive information from assignees and/or licensees, at least once a year, outlining how their works has been exploited. This must include transparent calculations of contractual entitlements and relevant revenue and remuneration data.
- Additional, appropriate and fair remuneration from their contractual counterparty (including successors in title) where the remuneration originally agreed is disproportionately low compared to the revenues generated from exploiting the works or performances.

It is also important that technology companies that are delivering the AI technology work with Equity to negotiate new collectively bargained agreements. These companies are reshaping the arts and entertainment industry. However, they tend to be unfamiliar with the collective bargaining processes, which is the norm between producers and the union across the entertainment industry. This is vital for ensuring the industry can thrive alongside the development of AI, and for it to remain an area where performers can make a fair and equitable living from their craft and skill. Performers must receive fair compensation not just for their performance but also ongoing payments whenever their performance is used in the future.

[Non-Disclosure Agreements](#)

Alongside the collective bargaining process, there are other ways the industry could work with Equity to support the talent pipeline development. As previously mentioned, NDAs are widely used across the UK audio-visual industries, such as Film, TV, and Games. They are common practice amongst AI companies engaging with our members for professional work.

Equity recognises and fully respects the need to protect identifiable, valuable and substantive confidential information. However, it is in the interests of the entire industry that NDAs (where needed) do this in a clear, legal, enforceable, fair and targeted way. We have deep concerns about the damaging impact of NDAs on our fight to eradicate harassment and abuse from the audio-visual industry and are working hard to reach agreements and practices which serve to isolate and gag performers. The industry must remove the duress under which performers are placed whereby they are obliged to sign an NDA as a pre-condition of their being auditioned or cast. We reject the current excessive use of unnecessary, bullying and over-reaching NDAs. It is not acceptable that performers should feel pressured, confused or misled. Equity calls on the entire industry to better understand and manage the issues of confidentiality and to stand together against unreasonable NDAs. Current NDAs and practices not only harm performers but damage the vital trust and honesty between performers, casting directors, agents and producers which lies at the heart of the UK entertainment industry. They may not even provide the protection that engagers seek.^{ix}

[Advertising transparency](#)

Many of our members, such as actors, models, and dancers, generate an income from commercials. The role of technology has led to a huge expansion in digital platforms that are partly or fully funded by advertising. Users are watching recorded media more than ever on mobile devices using websites that are full of advertising. The nature of advertising is changing on these platforms. It has become much more targeted towards individual preferences by tracking interests and purchases of users, which makes a large contribution to the success of the advertising campaign. However, there is little or no transparent measure of viewers of these online ads. We would like to see more accurate and transparent means of measuring visitors to online adverts so that our members can achieve equitable remuneration for their contribution to ad campaigns that utilise their performance rights.

[Sustainability](#)

The entertainment industry has an important role to tackle the climate emergency. With an estimated 8 years' left to avert cataclysmic ecological breakdown, climate mitigation could not be more important to protect the future of the talent pipeline and society as a whole. This must be front and centre of plans to industry future planning.

Building on the work of the Theatre Green Book^x, and we are Albert, producers and engagers across the entire entertainment industry need to deliver sustainable productions, buildings and operations. For example, production teams should ensure that materials come from reused or recycled sources, journeys and deliveries are reduced, and technical systems are run sustainability. The industry must action in partnership with the workforce and their trade unions.

Producers and engagers must also make reasonable adjustments to ensure workplaces are safe during extreme weather events, which are becoming increasingly common. In the last heatwave, some theatres reached interior temperatures of 37 degrees, which is too hot to work. To keep temperatures down, producers should conduct a hot weather risk assessment and put in place mitigations to bring the temperature down when it reaches 24 degrees inside, such as costume changes to keep you cooler and additional breaks. At 27 degrees, producers should cut-off for strenuous work, such as performing a number in a musical in full costume and 30 degrees should be the absolute limit for all work. Despite the fact that the climate emergency has led to and will increasingly lead to a generally warmer climate, there is also the likelihood for periods of extremely cold temperatures. In order to prevent the unnecessary use of energy for heating or cooling or the eventuality of a workplace being unsafe for work, industry must prioritise insulation of all buildings and sets. The long-term savings on energy will easily absorb capital costs for insulation. This is especially important considering the variability of and spikes to energy costs recently.

The evidence suggests that future workforces are likely to have more caring commitments due to the aging population of the UK.^{xi} The industry must adapt to support carers and the increase in caring responsibilities through improving work life balance and offering shorter working weeks. This will also give parents and carers more opportunity and longevity in the industry and give better opportunity for industry to have a workforce that is demographically representative of local/UK populations.

Importantly, shorter working weeks is hugely beneficial in building sustainability and reducing emissions both from industry operations but also in the aggregate personal lives of workers who, when given more time off, tend to engage in lower-impact activities compared to those working long hours who are associated with higher consumption of environmentally intensive goods (even when correcting for income). There are great gains to be made in improving society as a whole because the evidence strongly suggests that giving people more time off results in significant improvements in quality of life, health outcomes, job satisfaction and happiness, and promotes greater gender equality.

Producers and engagers across the entertainment industry could help reduce emissions in respect of their finances by improving pension funds and investment portfolios. Research from *Make My Money Matter*, *SYSTEMIQ* and *Global Canopy* reveals that for the average pension holder, £2 in every £10 is linked to investment in companies and financial institutions with high deforestation risks.^{xii} Further [research](#) from Make My Money Matter, WWF and Aviva suggests that switching to a sustainable pension is 21x more effective at reducing your carbon footprint than giving up flying, going veggie and switching energy provider combined.^{xiii}

We also believe that all publicly funded arts bodies should have robust sustainability criteria to all project grant applications. Art and culture institutions have an opportunity to lead by example and to utilise their public funding in support of a just transition in their workplaces. Criteria could include mandatory insulation in flagship theatres, ensuring a living wage for their front of house staff, installing heat pumps for a cleaner, greener energy supply and a pledge to recycle their sets and costumes.

[Education and skills](#)

Action is urgently needed from the industry in relation to educational training and skills. The rapid growth of production across the UK film and TV sector in recent years alongside issues of workforce retention is putting significant strain on the industry. A recent report by Ofcom also found that broadcasters are facing a worrying

loss of diverse talent. For the first time, more people are leaving the industry than joining, particularly women, while disabled people remain significantly underrepresented.^{xiv} This has led to a shortage of skilled crew, which is contributing to highly pressurised workplaces and negative working practices and cultures.

The recently published BFI Skills Review estimated that current growth in production for film and film and high-end television will require up to 20,770 additional full-time employees by 2025 needing an overall training investment of over £104 million a year.^{xv} The BFI has called on the industry to invest at least 1% of all production budgets in training. The review includes other recommendations, such as more formalised approach to hiring, workplace management and professional development; and more comprehensive careers information, profiles and pathways. The industry must implement these recommendations in partnership with the workforce and their trade unions.

Education and training establishments also have a vital role to play here in providing formal vocational education, which centres on models of good practice in employment relations. Feedback from our members indicated that education providers across the performing arts rarely provide by sufficient support to prepare their students for the world of work, including expectations of good health, safety and welfare systems.^{xvi} This has implications for our members' mental health with young workers preparing to enter the industry not sufficiently encouraged to reject any form of abusive or discriminatory behaviour.

In the UK there is no single, overarching body informing the curriculum for work and employment across vocational training and education institutions covering the creative and cultural industries. This is arguably challenging. However, as highlighted by the BFI Skills Review, education organisations must engage with the industry to inform tailored approaches to training and career development, set standards and frameworks around current good practice, and help disseminate information about careers.^{xvii}

[Equality and diversity](#)

To support the future talent pipeline, urgent action is needed from across the industry to improve the diversity of the workforce (including notably around social class). Our industry has an ongoing problem of elitism with deep-rooted structural issues that make it harder for people from low-income backgrounds and under-represented groups to build and sustain a career in the industry. There is currently a relative lack of, and variability of, strategic policy from the industry to deliver this, which has led to Equity devising a wealth of best practice guidance for industry stakeholders.

For example, guidelines were put together by the Equity LGBT+ Committee, in collaboration with All About Trans and Spotlight, to increase LGBT+ representation, and in particular the trans community, across our screens, stages and audio platforms. This document sets best practice for working with performers and creatives who identify as LGBT+. We strongly encourage industry stakeholders to apply these casting guidelines with a broad range of LGBT+ workers, including those with intersecting protected characteristics, to ensure workplace policies and practices reflect the diversity of lived experience across our community. The industry should also use Equity's casting guidelines to develop a casting policy that embeds authentic and lived experience as key criteria for the portrayal of LGBT+ characters, to address historical exclusion and marginalisation.

Equity has also drafted best practice guidelines in other core areas. This includes, for example, guidance on working with artists who are BSL users, on improving the engagement of dance companies with Deaf and disabled dancers and to increase the proportion of Black and minority ethnic actors in lead roles across mainstream TV broadcasting.

[Bullying, harassment and inappropriate Behaviour](#)

A safe working environment where everyone is treated with dignity and respect, and bullying and harassment is not tolerated, is vital to safeguard the future of the creative industry. It is intrinsic to successful production

that we move towards a culture in which everyone feels able to call out unacceptable behaviour and that nobody is above being challenged and no one is untouchable.

Equity is leading an important piece of work in this area. We recently organised a historic meeting of industry representatives involved in the working life cycle of actors in TV met to discuss how everyone can contribute to a respectful workplace and to agree how concerns should be raised if there is inappropriate behaviour.^{xviii} The group agreed to the following principles:

- Safe casting and audition spaces: professional recruitment standards to be adopted and auditions undertaken in appropriate workspaces.
- Policies: producers to have clear respect at work policies which include a process for making and addressing concerns and complaints of bullying and harassment.
- Accessible information: information shared with cast and crew about how concerns can be raised either if they are the victim of or see inappropriate behaviour (e.g. information on call sheets and displayed in communal areas, access to support and whistleblowing helplines, details of the safeguarding contact for each production).
- Anti-bullying and harassment training: to be completed by cast and crew before they start work.
- Safeguarding contact: a suitably trained, senior member of the production team who can be contacted and who can proactively make any necessary adjustments.
- Nudity and simulated sex acts: notification to be given in advance and in writing about the scope and extent of nudity and/or simulated sex requested, followed by discussion and agreement with the artist. For scenes of an intimate nature, an intimacy co-ordinator is to be engaged if acceptable to the actors involved.

Those signing up to the principles include AMC, Apple TV+, BBC, The Casting Directors Guild, Channel 4, Channel 5, The Co-operative Personal Management Association, Disney, Equity, HBO, Intimacy Directors & Coordinators, ITV Studios, Northern Ireland Screen, Pact, Paramount, Personal Managers Association, S4C, Screen Scotland, Sky, TAC, Warner Bros. Now that these principles are agreed, it is vital that they are actioned. We also want to see similar approach taken across the entire performing arts and entertainment industry.

Other positive action can be found else across the industry. For example, the BFI has created a model Dignity at Work policy^{xix}; and the Film & TV Charity has produced the Whole Picture Toolkit^{xx} for screen industry production companies to develop and adopt good practice in maintaining good mental health, including around bullying and harassment policy. We strongly encourage producers and engagers across the creative industry to utilise these best practice resources and guidelines.

iii. Government action

- **Question 3. What actions are needed from the government to ensure there is an appropriate talent pipeline equipped with these skills? a) How can this be sufficiently flexible to take account of the pace of change in the sector?**
- **Question 6. How effective are the government's existing strategies at supporting the creative industries to meet the challenges and opportunities ahead?**
- **Question 7. What lessons can the UK's creative industries learn from other countries, and other sectors?**

[National AI Strategy](#)

The government's existing National AI Strategy is not sufficient at supporting the creative workforce to meet the challenges and opportunities ahead. When the strategy was first published in September 2021, acknowledged the profound impact AI will have on businesses across the UK and the wider world and outlined their desire to fully unlock the power of AI and data-driven technologies whilst ensuring all sectors benefit.^{xxi} In line with this strategy, the government has delivered two separate consultations looking at our Intellectual Property (IP)

system in relation to AI. The Intellectual Property Office (IPO) has recognised that “AI is playing an increasing role in... artistic creativity”.^{xxii} They have also acknowledged “concerns that mass-produced works generated by AI could devalue human creators” and that they “should not undermine copyright’s central role in rewarding artistic expression and talent”.^{xxiii} However, specific questions about reviewing or enhancing performers’ rights were notably absent from both consultations. This is especially disappointing given that the government have stated publically that they are “committed to exploring the opportunities which might come from a change to the (copyright) regime”.^{xxiv}

On 28 June the government published the outcome of the latest AI and IP consultation.^{xxv} Although the government acknowledged our submission, they were not convinced about the need to update our intellectual property framework and instead have adopted a 'wait and see' approach.

82. Some respondents raised concerns about the impact of AI on performers. This includes concerns that computer-generated performances might replace human performers. The effect on audio performances (such as audio-book narration and voice-overs) was a particular worry. There are also concerns that computer-generated performances provide greater opportunities for using performers’ images, voices or likenesses without permission. For example, in ‘deepfakes’. Some stakeholders called for an expansion of the scope of performers’ rights in the Copyright, Designs and Patents Act 1988 to address these issues.

83. We take these views seriously. But, at this stage, the impacts of AI technologies on performers remain unclear. It is also unclear whether and how existing law (both in the IP framework and beyond it) is insufficient to address any issues. If intervention is necessary, the IP framework may not be the best vehicle for this. We will keep these issues under review from an IP perspective.

In direct response to the questions posed in the consultation, the government concluded that they will not introduce copyright protection for computer-generated works (CGWs) without a human author. We welcome this decision. It is our view that copyright should always be tied to the actions of a human and therefore limited to human-authored or human-assisted AI works. No intellectual property should vest in purely AI creations. Vesting copyright in AI-generated content presents many challenges, concerns that have been raised by academics, lawyers and producers across the UK and globally. For example, the concept of authorship is not readily applicable to AI-generated works because the existing copyright regime assumes an author to be a natural person. This ties the term of copyright protection to a certain period beyond the author’s lifetime.

As part of the consultation response, the government concluded that they will introduce a new copyright and database right exception which allows text and data mining for any purpose.^{xxvi} The consultation indicated that rights holders favoured no change to the current system, but the government plans to introduce the exemption regardless to support AI and wider innovation. This decision is very concerning and has the potential to undermine the overarching objective of our entire copyright structure, which is to allow individuals to protect their work and stops others from using it without their permission. This could have significant implications for the creative workforce and we are worried that this could grant AI companies unfettered access to copyrighted material. We also oppose the position that rights holders will not be able to opt-out or contract-out of the exception. The government must provide additional clarity regarding the proposed safeguards for rights holders to protect their content, including a requirement for lawful access.

On 18 July the government published a new policy paper on regulating AI.^{xxvii} According to the government, the proposed regulatory framework will be rooted in a set of cross-sectoral principles and be placed on a non-statutory footing that is supported by guidance. Crucially, the government stated that they do not intend to create an extensive new framework of rights for individuals, which is extremely disappointing. Aligned this statement the government has published another consultation, which includes a question about the challenges facing businesses. Once again, the scope of the consultation does not include a review intellectual property rights for individuals and the creative workforce.

[Intellectual property](#)

The rapid development of AI has reinforced the urgent need for the government to update the Copyright, Designs and Patents Act (1988). This piece of legislation was drafted a time when CDs and cassettes were mainstream and the World Wide Web not yet opened to the public. We are calling for a new suit of intellectual property rights, including updated performers' right, moral rights, and image rights.

Synthetised performance rights

Currently performers have two sets of rights under the Copyright, Designs and Patents Act 1988: the right to consent to *the making of a recording of a performance*; and the right to control the subsequent use of such recordings, such as *the right to make copies of recordings*. In the context of this Act, a 'performance' includes a dramatic or musical performance, or a reading or recitation of a literary work, which is a live performance. By way of example, performers' rights may enable a performer to prevent the issue of copies of unauthorised recordings of a recording of a performance, or otherwise prevent such a recording being made available via the internet. As such, performance rights are more particularly relevant for artists in a theatrical, dramatic and/or musical context.

AI-made performance synthetisation challenges our intellectual property framework because it reproduces performances without generating a 'recording' or a 'copy'. Therefore, the legal framework for synthetisation of live performances using AI systems is uncertain. This distinction is important because the Act does not grant protection against unauthorised *reproductions* of a performance, via imitation, re-performance or synthetisation. Put simply, AI-made synthetisation generates digital sound and look-alike, and falls outside the scope of protection conferred to performances by the Act.

Without the legal recognition of these rights, performers are also unable to form contracts to authorise the synthetisation of their performance or likeness. As a result, performers are unable to protect and compensate for the use of their performance when working with AI. Economic rights and the ability for performers to make commercial gain from their works is particularly important due to the precarious nature of the profession and for helping the UK retain creative skills. Dr Mathilde Pavis from the University of Exeter argued in her written evidence to the IPO's previous consultation^{xxviii} that performers' rights should be augmented to include protection against the reproduction of performances.

- Section 182(1) should be revised to include the synthetisation of live performances as an act of 'recording';
- Section 182A of the Act should be revised to include the synthetisation of recordings as an act of making 'a copy';
- Alternatively, Part 2 of the Act should be revised to introduce a separate right to control the reproduction of performances.

We agree with Dr Pavis' recommendations and arguments. Improved legal protections will enable these stakeholders to control the unauthorised synthetisation of protected performances and form secure contracts to monetise their synthetisation. Augmented performers' rights ensure that UK performers and this sector of the UK creative economy stay competitive in facing the challenges brought by AI systems to their industry. This is the opportunity to place the UK as a global leader in the protection of performers via performers' rights.

Moral rights

Works can be very significant to the creator emotionally and/or intellectually. Moral rights, which protect those non-economic interests, are available for literary, dramatic, musical and artistic works and film, as well as some performances. Moral rights in the UK are weak for our member's audio-visual performances because these rights only relate to the 'aural' or sound element of a performance. Equity has sought to rebut the presumption of a transfer of moral rights by encouraging the agent community to insert the following clause into the contracts. Such an action cannot be undertaken by Equity as it is down to the performers to assert the right.

“The Artist hereby asserts his/her moral right to be identified as a performer, conferred by section 205D of the Copyright, Designs and Patents Act 1988 as amended by the Performances (Moral Rights etc) Regulations 2006”

However, the rapid development of technology has reinforced the urgent need to improve the moral rights framework under the Copyright, Designs and Patents Act 1988 so that our members can control the exploitation of their work. The WIPO (World Intellectual Property Organization) Beijing Treaty on Audiovisual Performances, supported by the UK government and signed in 2013, extends moral rights to audio-visual performances. The granting of moral rights in-line with the Beijing Treaty would enable performers, and Equity as their representative, to defend against AI-generated or AI-assisted deepfake content. The treaty also includes the statutory provision of four kinds of economic rights for performances fixed in audiovisual fixations, such as motion pictures: (i) the right of reproduction; (ii) the right of distribution; (iii) the right of rental; and (iv) the right of making available.^{xxix} Many of our members already benefit from these economic rights through Equity’s collectively bargained agreement and our mixed economy system of royalties, residuals and licencing.

The Beijing Treaty is the result of more than 20 years of persistent advocacy work by Equity, the International Federation of Actors and other performer organisations across the world. Equity was proud to attend the 2012 Diplomatic Conference in Beijing which finalised the Treaty. So far 47 contracting countries around the world have ratified the WIPO Beijing Treaty and many have implemented the treaty at a national law.^{xxx} However, these developments have created contractual uncertainties and administrative burdens for engagers working cross-borders. We look forward to working with the IPO on a successful implementation of the Treaty in the UK.

Image rights

In the UK, there is no codified law of image rights or privacy. Instead, we have a patchwork of statutory and common law causes of action, which an individual can use to protect various aspects of their image and personality. However, none of this fits the bill. Advances in AI, including deepfake technology, has reinforced the urgent need to introduce of "image rights" (also known as "personality rights" or "publicity rights"). This refers to “the expression of a personality in the public domain”^{xxxi}, such as an individual’s name, likeness or other personal indicia. Provisions of image rights in law enable performers to safeguard meaningful income streams, as well as defend their artistic integrity, career choices, brand, and reputation. More broadly for society, it is an important tool for protecting privacy and allowing an individual to object to the use of their image without consent.

Legal provision for image rights can be found around the world. For example, some American states recognize the right through statute and some others through common law. California has both statutory and common-law strains of authority, which protect slightly different forms of the right. The Celebrities Rights Act (1985) was passed in California, extending the personality rights for a celebrity to 70 years after their death. In 2020, New York State passed a bill which recognises rights of publicity for “deceased performers” and “deceased personalities”.^{xxxii}

Guernsey has created a statutory regime under which image rights can be registered. The legislation centres around the legal concept of a ‘personnage’. They are the person or character behind a personality that is registered. The image right becomes a property right capable of protection under the legislation through registration, which enables the image right to be protected, licensed and assigned. Most people who have registered to date are image rights companies based on the island and/or those who are looking at innovative ways of protecting their persona. The most coherent and desirable solution for the UK is for the government to provide for an image or publicity right through legislation, which extends post-mortem. A mechanism for registering image rights should also be created, similar to the system in Guernsey.

Public Service Broadcasting

Public Service Broadcasting (PSB) is essential to the ‘mixed ecology’ of the UK production sector. PSB is vital for our culture, democracy, economy, and UK soft power. However, the proposals outlined in the Broadcasting White Paper^{xxxiii} have the potential to significantly impact the PSB landscape and the workforce in the next 5–10 years.

A) Channel 4 privatisation

The government has confirmed that they are proceeding with the highly divisive plan to sell Channel 4. They have argued that privatisation will allow this highly successful public service broadcaster to compete with streaming giants such as Netflix and Amazon. This argument is flawed with Channel 4 operating on an entirely different financial model to that of SVOD providers.

We are very concerned about the future talent pipeline. Once profit becomes the prime motive, Channel 4 will be far less likely to engage fully in the costly process of scripted commissioning. This will hurt jobs across the supply chain and independent production companies. Ernst & Young estimated that £2.1bn could be slashed from the supply chain over a ten-year period and there would be 2,400 fewer jobs each year. A privatised Channel 4 focused on delivering profits and possibly owned by a foreign company will be more likely to rely repeats and overseas imports, such as American TV comedy and drama, which are cheaper. Under private ownership, the broadcaster will very likely be more risk adverse and profit orientated—focusing on programmes and stories with global appeal, rather than those tailor-made for UK audiences. This will also impact audiences and undermine the government's vision for an outward-looking UK.

Privatisation will also remove legislative responsibilities to nurture new talent and reflect cultural diversity. Research shows that Channel 4 is consistently rated more higher than other PSBs for tackling issues others would not, showing different cultures and viewpoints of minority groups. This could be lost and could affect employment opportunities for creative workers from underrepresented backgrounds. Finally, we are concerned that privatisation could lead to a reduction in investment in skills and training in the creative sector, which is already under threat due to policy changes to higher education. Channel 4 currently invests significantly in training and skills. The broadcaster recently increased investment in 4Skills to reach 15,000 people a year from 2022, with a particularly focus on underrepresented groups.

B) BBC funding

The BBC also faces disruption and change over the next 5-10 year due to significant uncertainty for the funding landscape. The White Paper reconfirmed the government’s plan to freeze the licence fee for the next two years. The BBC was already required to cut spending by £1bn a year between 2017 and 2022 due to the licence fee settlement imposed in 2015.^{xxxiv} The freezing of the licence fee will result in an estimated £285 million gap in funding by 2027.^{xxxv} Until now most financial savings have come from reducing spending on behind-the-scenes staff and improving productivity. The National Audit Office warned that there is little extra left to cut behind the scenes, meaning future BBC savings will have to come from programme budgets and the corporation’s news division.^{xxxvi}

We strongly oppose any loss of funding to the BBC and urge the government to increase and sustain the BBC’s funding. Any loss in funding would have a significant detrimental impact on work for Equity members. There is a risk that high budget drama and comedy commissioned and produced by the BBC could be replaced with cheaper programmes.^{xxxvii} However, these productions also rely on funding from other sources and may be better protected. We are particularly concerned about other services such as radio drama, the continuing drama series, the innovative content, the children’s productions and the BBC Singers who are funded solely by the BBC.

The government also plans to reform the BBC license fee funding model to find what it believes to be “the most fair and appropriate funding mechanism”. We understand the need to review the merit of different funding models. However, the primary question the government should be focused on is what we want from the BBC going forward. This should then dictate discussions about how it should be funded in the long term. For Equity, a key priority is that the BBC continues to be a vital source of employment for our members, which can only be maintained with appropriate and sustainable long-term funding. We also believe the principle of universality

should not only be maintained but also strengthened. The BBC must continue to guarantee universal access, for and available to everyone. However, we also new structure where the BBC is owned and run by both the licence fee payer and its workforce – including both those permanently employed and the freelance army it relies on.

C) BBC – Wales

For Wales, all S4C's funding comes from the BBC License Fee Settlement. Therefore, any change in the way the BBC is funded will impact S4C by association. As part of the Broadcasting White Paper, the government reconfirmed the licence fee settlement for S4C for the next six years previously announced on 17 January. This provides £88.8 million per annum for the first two years, then rises in line with inflation thereafter. It includes a new commitment of £7.5 million per annum to support S4C's digital development.

The government plans to introduce legislation to change the Framework agreement between S4C and the BBC. They want to move away from “the current, somewhat rigid, framework”, which requires the BBC to provide S4C with a specific number of hours of television programming, so that they can agree an alternative arrangement that better suits the evolving broadcasting landscape. The continuing drama *Pobol Y Cwm* (PYC) is currently provided by the BBC to S4C as part of the Framework arrangement. There is a permanent cast of around 30 – almost 90% of which are Equity members. PYC has already faced significant cuts to the number of episodes this year with the shooting weeks reduced from 48 to 34, and the proposed shooting weeks planned for 2023 further reduced. This has led to a significant loss of earnings for Equity members. We are opposed to any changes to the Framework agreement between S4C and the BBC and the provision of hours that could have a further impact on our members work and income.

Education and skills

Whilst the value of the creative education to young people's lives and to society as whole is well recognised, the government has downgraded creative subjects across our education system. This is depriving many young people from accessing a high-quality creative education.

It is widely recognised that the increased focus on STEM subjects, alongside an accountability framework that only values English Baccalaureate (EBacc) subjects, has led to a narrowing of the curriculum disproportionately affecting arts courses. A huge gap now exists between school and entering the industry. Research conducted by Roundhouse with Partnership for Young London demonstrated how hard it is for young Londoners from more deprived backgrounds to a creative career. The research emphasises how much harder it is to start in a career post-18 without a good basis of creative education at school.^{xxxviii} Going forward, the government should scrap the EBacc and other constraints on arts subjects and increase arts education and performing arts visits in junior and secondary schools.

The government also moved ahead with plans to cut funding for art and design courses by 50% across higher education institutions in England. The subsidy for each full-time student on an arts course was cut from £243 to £121.50 for the academic year 2021/22. The former Education Secretary suggested that halving the grants going to "high cost" subjects would prioritise funding to “subjects vital to the economy and labour markets”. We are now facing the possibility that these subjects will become the preserve only of those who can afford them. This is seriously undermining the government's commitment to level up opportunities and ensure the talent pipeline is equipped with the necessary skills.

Crucially, the Apprenticeship levy is not working effectively for the creative industry. The system requires apprentices to be employed by a single employer for a minimum of a year and 278 hours minimum. This is largely incompatible with creative occupations. For example, Research conducted by ScreenSkills suggested that as much as £15 million paid by film, television, VFX, animation and games cannot be used by the industry under the current apprenticeship rules.^{xxxix} A bespoke approach is needed for our industry to increase the number of paid apprenticeships and the government must work more effectively with employers to ensure they can access and deploy the Levy effectively. Potential lessons could also be learnt from the Welsh government who have

identified that skills and talent support is a priority for the creative sector and are in the process of establishing a new creative skills body.^{xi}

[Equality and diversity](#)

Despite the wide range of initiatives, there has been a disappointing lack of progress on improve workforce diversity across the creative industry. We agree with the government that the broadcasters and media sector must do everything they can to address critical areas of under-representation, including supporting those from working class backgrounds. It is disappointing that there are no concrete government policies, including in the recent Broadcasting White Paper, to deliver meaningful change for the industry. Equality monitoring of the creative workforce would be a welcome first step. As noted in the White Paper, Ofcom monitors diversity and equal opportunities for employees working for the main broadcaster.^{xii} However, this is very limited in scope and does not cover the creative freelance workforce, an issue that has been identified by Ofcom consistently and with repeated demands for change.^{xiii} For years, we have called for the government for accurate data monitoring to better understand our workforce, particularly in regards to diversity and inclusion. We also believe the government should introduce a process of accountability and consequence for the industry. For example, the government could deliver appropriate penalties for companies who have not taken the appropriate action and are in receipt of government funding.

[Bullying, harassment and inappropriate behaviour](#)

It is disappointing that we have also seen no concrete policies from government for tackling bullying and harassment that takes place in workplaces across the creative industry. For example, the government does not intend to amend the Equality Act and create a positive duty on employers (and those engaging self-employed workers) to prevent sexual harassment, which was recommended by the Women and Equalities Committee as part of their inquiry on sexual harassment at work. The government has also chosen not to publish a new Statutory Code of Practice on sexual harassment, nor are they proceeding with the wide range of measures they had previously promised in 2018 in their response to this inquiry.^{xliii}

As mentioned previously, Equity is leading a significant piece of work in this area. However, the measures outlined above are vital for safeguarding the future of the industry and its workforce. Alongside statutory obligation on employers, we would welcome penalties on production companies who do not comply. Without government intervention, this issue could further disrupt the industry and prevent people from wanting to build and sustain a career as a performer or creative worker.

[Creative sector tax reliefs](#)

The tax incentives for high end TV, Film, Video Games, Children's TV, and Animation are hugely successful and we welcome the government's commitment to continue this policy initiative as part of the recent Broadcasting White Paper. Global players across the entertainment industry have invested in UK productions to take advantage of these financial measures, creating jobs for our members and powering economic growth across the UK. However, the government should use financial incentives, such as the creative sector tax reliefs, as a way to drive up standards and strengthen the industry. The High-end TV Skills Fund^{xliii} is an industry initiative where high-end TV productions taking advantage of tax relief contribute to a skills levy fund to support the talent pipeline. We believe that the government should go further and mandate those in receipt of any creative sector tax reliefs to abide to industry standards set by the unions. This includes policies and procedures to tackle harassment and increase diversity.

[Creative Industry Vision Statement](#)

The government has committed to publish a Creative Industries Sector Vision, which will set out a long-term strategy for the sector and deliver on the government's levelling up, Global Britain and net zero objectives. The

government claims that this strategy was developed in partnership with the industry. However, there has been no direct engagement with creative industry trade unions who represent the interests of the workforce. We would like to see proper consultation and the development of a workforce plan to deliver career pathways for creative freelancers, particularly those from low-income backgrounds and marginalised groups.

Post-Brexit strategy

In December 2020, the UK and EU signed the Trade and Cooperation Agreement, which governs our trading, and security relationship. Despite Equity's calls to protect creative professionals and their ability to tour freely, the Trade Deal has made it very difficult for many of our members to work in the EU. Expensive visas, different work permits for different countries and inconsistent tax and social security rules are just some of the obstacles workers now face. This is acutely felt by our most mobile members working in live performance – opera singers, entertainers and variety artists, fashion models, and dancers especially who cannot as easily access the main European employers.

Our members told us the following:

- 43% report that Brexit has negatively affected their confidence in being able to find work in the arts and entertainment industry
- 31% have seen job advertisements and/or casting breakdowns asking for EU passport holders only to apply
- 14% have been asked by their agent to confirm if they are an EU passport holder for the purpose of finding work

The provisions in the Trade Deal have also presented a significant problem for the Irish border. There is now additional bureaucracy moving goods in and out of Northern Ireland. Ongoing uncertainty is impacting the creative sector and this has not been as widely discussed as other sectors. This could hinder the success of the industry and job creation in an area of the UK that has huge potential. We are concerned that the disruption caused to the industry will still be felt throughout the next decade unless urgent action is taken by the government to resolve the ongoing issues that have been identified by the industry.

ⁱ <https://www.gov.uk/government/consultations/artificial-intelligence-and-intellectual-property-call-for-views>

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ⁱⁱⁱ <https://www.equity.org.uk/media/6134/report-stop-ai-stealing-the-show.pdf>

^{iv} <https://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/87762-ai-comes-to-audiobooks.html>

^v <https://www.dazeddigital.com/science-tech/article/53271/1/how-the-voice-of-tiktok-sued-the-app-for-stealing-her-speech>

^{vi} https://www.rapidtvnews.com/2022082362825/analyst-questions-need-for-more-streaming-platforms.html?utm_campaign=analyst-questions-need-for-more-streaming-platforms&utm_medium=email&utm_source=newsletter_3038#axzz7cmURL9Cq

^{vii} <https://wearealbert.org/2020/07/22/screen-new-deal/>

^{viii} <https://theatregreenbook.com/wp-content/uploads/2022/08/Act-Green-Theatre-Green-Book.pdf>

^{ix} <https://www.equity.org.uk/at-work/guides/guidance-on-non-disclosure-agreements/>

^x <https://theatregreenbook.com/book-one-sustainable-productions/>

^{xi} <https://www.health.org.uk/publications/our-ageing-population#:~:text=Key%20points,health%20and%20social%20care%20services>

^{xii} <https://makemymoneymatter.co.uk/wp-content/uploads/2022/03/Cutting-Deforestation-from-our-Pensions-April-2022.pdf>

^{xiii} <https://makemymoneymatter.co.uk/wp-content/uploads/2021/07/Summary-of-21x-research.pdf>

^{xiv} <https://www.ofcom.org.uk/news-centre/2021/broadcasters-facing-diverse-talent-drain>

^{xv} <https://www.bfi.org.uk/news/bfi-skills-review-published-film-high-end-television>

^{xvi} <https://www.equity.org.uk/media/6188/mental-health-report5.pdf>

^{xvii} <file:///C:/Users/lbudd/Downloads/bfi-skills-review-2022-06-29-v2.pdf>

^{xviii} <https://www.equity.org.uk/media/6386/statement-of-commitment-english.pdf>

^{xix} <https://www2.bfi.org.uk/sites/bfi.org.uk/files/downloads/dignity-at-work-policy-28-05-2019-v1.pdf>

^{xx} <https://filmtvcharity.org.uk/leading-change/the-whole-picture-toolkit/>

^{xxi} <https://www.gov.uk/government/publications/national-ai-strategy/national-ai-strategy-html-version>

^{xxii} <https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents/artificial-intelligence-and-intellectual-property-copyright-and-patents>

^{xxiii} <https://www.gov.uk/government/consultations/artificial-intelligence-and-intellectual-property-call-for-views/government-response-to-call-for-views-on-artificial-intelligence-and-intellectual-property>

^{xxiv} <https://www.theguardian.com/books/2022/jan/19/government-pauses-plans-to-rewrite-uk-copyright-laws-after-authors-protest>

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