



Business Skills for Youth
in the CCI sector

MODULE 5

LEGAL AND ETHICAL CONCERNS IN THE CCI

TOPIC 5.1

INTRODUCTION IN THE LEGAL AND ETHICAL CONCERNS IN CCI SECTOR



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Content

In the vast ocean of the Cultural and Creative Industry, where creativity meets commerce, there exists a complex interplay of legal and ethical concerns. This module sets sail to explore the multifaceted landscape of these concerns, examining the challenges, implications, and possible solutions that arise within this dynamic sector.

Moreover, the Cultural and Creative Industry wields significant influence in shaping public discourse and perception, raising ethical questions about the power and responsibility of creators. From media manipulation to propaganda, the dissemination of misinformation and propaganda can have far-reaching consequences, undermining democratic values and social cohesion.

In the ever-evolving landscape of the Cultural and Creative Industry, navigating the legal and ethical seas requires vigilance, collaboration, and a commitment to principled practices. By upholding the rights of creators, promoting diversity and inclusion, and fostering ethical awareness, stakeholders can steer towards a more equitable, responsible, and culturally enriching future for all.

What is Legal Concern in the CCI sector?

Legal Concerns: The Cultural and Creative Industry operates within a framework of laws and regulations designed to protect intellectual property, ensure fair competition, and uphold the rights of creators. However, navigating this legal terrain can be daunting, particularly in the digital age where boundaries are blurred, and infringement is rampant.

One of the primary legal concerns is intellectual property rights. Creators rely on copyright, trademarks, and patents to safeguard their creations from unauthorized use or exploitation. However, the ease of digital reproduction and distribution has made it increasingly difficult to enforce these rights, leading to rampant piracy and unauthorized reproduction.

Another legal challenge is contract law. As creators collaborate with various stakeholders, including distributors, producers, and investors, the terms of their agreements become crucial. Disputes over ownership, royalties, and creative control often arise, highlighting the need for clear and enforceable contracts to protect the interests of all parties involved.

Furthermore, the Cultural and Creative Industry operates within a global marketplace, necessitating compliance with diverse legal frameworks across different jurisdictions. This poses challenges in terms of regulatory compliance, tax obligations, and cultural sensitivities, requiring creators to navigate a complex web of laws and regulations.

What is Ethical concern in the Art?

Ethical Concerns: Beyond legal considerations, the Cultural and Creative Industry also grapples with a myriad of ethical concerns that shape its practices and impact its stakeholders. At the heart of these concerns is the tension between artistic freedom and social responsibility, as creators balance their creative vision with the potential impact of their work on society.

One ethical dilemma revolves around cultural appropriation and representation. As creators draw inspiration from diverse cultures and perspectives, questions arise regarding the authenticity of their portrayal and the respect for cultural heritage. Appropriation, stereotyping, and misrepresentation can perpetuate harmful stereotypes and erode cultural integrity, prompting calls for greater sensitivity and cultural exchange.

Another ethical concern is the exploitation of labor and talent within the industry. From unpaid internships to exploitative contracts, many creators, particularly emerging artists, face precarious working conditions and economic insecurity. Addressing issues of fair compensation, workplace diversity, and inclusivity is essential to fostering a more equitable and sustainable creative ecosystem.



Key considerations of Legal and Ethical concerns in the CCI:

In the Cultural and Creative Industries (CCI) framework in Europe, there are several legal and ethical concerns that need to be addressed to ensure the protection of cultural heritage, intellectual property rights, and the fair treatment of creators and consumers. This module will navigate you to:

- Intellectual Property Rights:** The CCI framework encompasses industries such as publishing, music, fashion, and design, where intellectual property rights (IPR) play a crucial role. Concerns arise regarding the protection of copyrights, trademarks, and patents, as well as the enforcement of these rights against infringement and piracy. Balancing the interests of creators, rights holders, and consumers while fostering creativity and innovation is essential.
- Cultural Heritage Preservation:** The CCI framework includes sectors that deal with cultural heritage, such as museums, galleries, libraries, and archives. Legal and ethical concerns arise regarding the preservation, digitization, and accessibility of cultural artifacts and historical materials. Issues such as repatriation of cultural objects, protection of indigenous knowledge, and cultural sensitivity in representation must be addressed to ensure the preservation and promotion of cultural heritage.
- Cultural Diversity and Representation:** The CCI framework should promote cultural diversity and representation, both in terms of content production and consumption. Ethical concerns arise regarding the portrayal of diverse cultures and communities, as well as the promotion of stereotypes and cultural

appropriation. Policies and initiatives aimed at supporting diverse creators, fostering inclusive content creation, and promoting intercultural dialogue are essential to address these concerns.

- **Fair Remuneration and Labor Rights:** In the CCI framework, creators and cultural workers often face challenges related to fair remuneration, precarious employment conditions, and lack of social protection. Ethical concerns arise regarding the fair treatment of workers, including artists, performers, writers, and other cultural professionals. Ensuring fair remuneration, decent working conditions, and access to social benefits for cultural workers are essential to promote a sustainable and equitable cultural sector.
- **Digital Transformation and Access to Culture:** The digital transformation of the CCI framework raises concerns about access to culture, digital inclusion, and affordability. While digital technologies offer new opportunities for content distribution, collaboration, and audience engagement, there are also challenges related to digital divide, accessibility barriers, and affordability issues. Policies and initiatives aimed at bridging the digital divide, promoting digital literacy, and ensuring affordable access to cultural content are essential to address these concerns.
- **Ethical Use of Data and Technology:** As the CCI framework increasingly relies on data-driven technologies such as artificial intelligence, big data analytics, and digital platforms, ethical concerns arise regarding data privacy, algorithmic bias, and surveillance. Ensuring transparency, accountability, and ethical use of data and technology in the cultural sector are essential to protect individuals' rights and promote trust and confidence among creators and consumers.

Additional Materials:

- https://en.wikipedia.org/wiki/Richard_Prince
- <https://www.unesco.org/en/emergencies/culture/learning/creative-industries>
- [Value added tax \(VAT\) - European Commission \(europa.eu\)](#)
- [e-Commerce rules in the EU | Shaping Europe's digital future \(europa.eu\)](#)

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TOPIC 5.2

KEY LEGAL CONSIDERATIONS



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Legal and ethical concerns within the cultural and creative industries are critical to understand and navigate for both practitioners and consumers alike. These concerns encompass a wide range of issues, from intellectual property rights to cultural appropriation and representation.

Understanding and addressing these legal and ethical concerns is essential for fostering a vibrant, responsible, and inclusive cultural and creative landscape. It requires collaboration between creators, industry stakeholders, policymakers, and consumers to uphold principles of integrity, respect, and social responsibility.

Key legal considerations in the CCI?

Legal concerns in the cultural and creative industries revolve around ensuring compliance with laws and regulations that govern various aspects of creation, production, distribution, and consumption of cultural products. Legal concerns within these industries are multifaceted, involving various aspects such as intellectual property, contracts, regulatory compliance, and cultural sensitivity. The key legal considerations are:

1. **Intellectual Property Rights:** Copyright, trademark, and patent laws protect the intellectual property of creators and organizations in the cultural and creative industries. Legal concerns arise regarding the infringement of these rights, including unauthorized reproduction, distribution, or adaptation of creative works, as well as the misuse of trademarks and patents. In the next chapter we will find specific details about IP rights
2. **Contracts and Licensing**
3. **Regulation and Compliance**
4. **Privacy and Data Protection**
5. **Accessibility and Disability Rights**
6. **International Law and Cross-Border Transactions**
7. **Ethical and Legal Standards**

Addressing these legal concerns requires awareness of relevant laws and regulations, consultation with legal experts, the implementation of compliance measures, and ongoing monitoring of legal developments in the cultural and creative industries.

What are Contracts and Licensing & Regulation and Compliance in Art?

Contracts and Licensing: Legal agreements play a crucial role in the cultural and creative industries, governing relationships between creators, producers, distributors, and other stakeholders. Concerns include the negotiation and enforcement of contracts, fair compensation for creative contributions, and the licensing of intellectual property for various uses

- **Rights and Licensing Agreements:** Clear and well-drafted contracts are essential for defining the rights and obligations of parties involved, including creators, distributors, and licensees.
- **Royalties and Compensation:** Establishing fair compensation terms, including royalties, is vital to avoid disputes and ensure that creators are appropriately rewarded for their work.

Regulation and Compliance: Cultural and creative activities are subject to regulations imposed by government agencies and industry organizations. Legal concerns include compliance with laws related to content standards, censorship, advertising, taxation, labor practices, health and safety, and environmental protection

- **Censorship and Content Restrictions:** Cultural and creative industries often face censorship and content restrictions, varying across jurisdictions. Understanding and complying with local regulations is crucial for avoiding legal challenges.



- **Age Restrictions:** Compliance with age restrictions for certain content, such as movies, video games, and music, is important to avoid legal consequences.

What are Privacy and Data Protection & Accessibility and Disability Rights in the CCI sector?

Privacy and Data Protection: In the digital age, data privacy laws regulate the collection, use, and sharing of personal information by cultural and creative organizations. Legal concerns include compliance with data protection regulations, obtaining consent for data processing, safeguarding sensitive information, and preventing data breaches.

Personal Data Handling: The collection, storage, and processing of personal data, especially in digital platforms, must comply with data protection laws to avoid legal consequences and protect user privacy.

Accessibility and Disability Rights: Legal obligations exist to ensure that cultural products and services are accessible to people with disabilities. Concerns include compliance with accessibility standards for digital content, provision of accommodations for live events, and addressing barriers to participation in cultural activities.



What are International Law and Cross-Border Transactions & Ethical and Legal Standards in the CCS sector?

International Law and Cross-Border Transactions: Globalization has led to cross-border transactions and collaborations in the cultural and creative industries, necessitating compliance with international treaties, trade agreements, and intellectual property laws. Legal concerns include jurisdictional issues, enforcement of contracts across borders, and protection of intellectual property rights in multiple jurisdictions.

Ethical and Legal Standards: Legal compliance often intersects with ethical considerations, such as avoiding harmful content, respecting cultural diversity, and promoting social responsibility. Cultural and creative organizations must navigate these complexities while upholding ethical standards and legal obligations.

Cultural Appropriation: Cultural and creative works need to navigate issues related to cultural sensitivity and appropriation. Legal concerns may arise if works are perceived as disrespectful or appropriative of specific cultures.

Indigenous Rights: Some creative works may involve traditional knowledge or expressions of indigenous communities, requiring respect for indigenous rights and adherence to legal frameworks protecting them.





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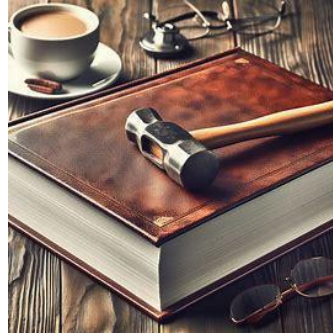
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TOPIC 5.3

INTELLECTUAL PROPERTY IN THE CCI



Content

The cultural and creative industries, as we have already stressed, encompass a diverse range of sectors, including literature, visual arts, design, fashion, and more. Legal concerns within these industries are multifaceted, involving aspects such as intellectual property, contracts, regulatory compliance, and cultural sensitivity.

The primary aim of this module is to provide participants with a holistic understanding of Intellectual Property mainly in Creative and Cultural Industries (CCIs) by addressing key challenges unique to this sector.

For young entrepreneurs, understanding intellectual property (IP) is crucial as they embark on their ventures in the creative industries. Intellectual property refers to creations of the mind, such as inventions, literary and artistic works, symbols, names, and images used in commerce.

Protecting Innovations: Young entrepreneurs often bring fresh ideas and innovations to the table. Protecting these through patents, trademarks, or copyrights can give them a competitive edge in the market. It's essential for young entrepreneurs to understand the different types of IP protection available and how to apply for them.

Preventing Theft or Misuse: Without proper IP protection, young entrepreneurs risk having their ideas stolen or misused. This could undermine their ability to build successful businesses and capitalize on their innovations. By securing IP, they can deter potential infringers and enforce their ownership over their creations.

Leveraging IP Assets: IP can also be valuable assets that young entrepreneurs can leverage to attract investors, secure funding, or generate revenue through licensing agreements or sales. Understanding the value of their IP portfolio and how to protect it can help young entrepreneurs build sustainable businesses.

Navigating Collaboration and Contracts: In the cultural and creative industries, collaborations are common, but they can also lead to IP issues. Young entrepreneurs should be aware of how to navigate collaborations with other creators or organizations by drafting clear contracts that outline IP ownership and usage rights.

Avoiding Infringement: Just as it's important to protect their own IP, young entrepreneurs must also respect the IP of others. This includes conducting thorough research to ensure that their products or services don't infringe on existing patents or copyrights.

Staying Informed: IP laws and regulations can be complex and vary by jurisdiction. Young entrepreneurs should stay updated on changes in IP legislation and seek legal advice when needed to ensure compliance and maximize the protection of their intellectual assets.

By understanding the importance of intellectual property and taking proactive steps to protect their innovations, young entrepreneurs in the cultural and creative industries can position themselves for success while safeguarding their intellectual interests.

What is Intellectual Property in the CCI sector?

Intellectual Property Law includes patents, copyrights, trademarks, and trade secrets. All of these areas are related to the CCI sector. While they all deal with protecting products of the mind but in other ways they are very different.

Intellectual property (IP) plays a crucial role in the cultural and creative industries, which encompass a wide range of sectors such as music, film, literature, visual arts, design, fashion, and more. Intellectual property rights protect the creations of individuals and entities, encouraging innovation and creativity while providing a framework for creators to benefit from their work. Intellectual Property is the exclusive rights of intellectual creators in their work. They are granted by law for a certain period of time to prevent third parties from using the works without the author's permission. Copyright exists in works of literary, artistic, scientific, and technical nature, including books, music, photography, software, and other creative endeavors¹. It includes the right to exploit the work (property right) and the right to protect the creator's personal link to it (moral right). Therefore, copyright is an important means of promoting cultural and creative industries. It protects the innovation and expression of creators. It is noted that copyright lasts as long as the creator lives and survives for a certain period after his death.

What we call Copyright in the CCI sector?

Copyright Infringement: Protecting original works from unauthorized use is a significant concern. Copyright infringement can lead to legal actions, damages, or the need to cease distribution of the infringing work.



In other words Copyright is a fundamental aspect of intellectual property in creative industries. It grants creators exclusive rights to their original works, such as literary, artistic, and musical creations.

Protection: Copyright protection is automatic upon the creation of a work, and it generally lasts for the lifetime of the creator plus a certain number of years (the duration varies by jurisdiction).

Use and Licensing: Creators can license their copyrighted works, allowing others to use them for specified purposes while retaining control and receiving compensation.

What we call Trademark Protection in the Art

Trademark Protection: Maintaining and enforcing trademarks is crucial for brand identity and preventing unauthorised counterfeiting. Trademarks protect distinctive signs, symbols, or names used to identify and distinguish goods or services. In cultural and creative industries, trademarks often represent brands associated with specific works or products. Trademarks are registered with the relevant authorities, providing exclusive rights to use the mark in connection with specific goods or services.

Strong trademarks contribute to brand recognition and can be valuable assets for cultural and creative businesses.



What we call Patents & Trade Secrets in the Ar

Patents: Limited Applicability: While patents are more commonly associated with inventions and technological innovations, they may also be relevant in certain creative industries, particularly those involving unique processes or technologies.

Trade Secrets: Confidential Information: Trade secrets protect confidential business information, including processes, formulas, or other proprietary knowledge. In the cultural and creative industries, protecting trade secrets may be crucial for maintaining a competitive edge.

Other significant aspects of IP in the CCI





LEGAL AND ETHICAL CONCERNS IN THE CCI

TOPIC 5.4

**OPPORTUNITIES AND CHALLENGES FOR CCI IN THE
DIGITAL ENVIRONMENT: THE ETHICAL CONCERNS**



Content

In today's digital age, the landscape of the cultural industry has undergone a profound transformation. The advent of digital technologies has revolutionized the way we create, consume, and distribute cultural products, presenting both opportunities and ethical challenges. As the digital environment continues to evolve, it is imperative to critically examine the ethical implications inherent in this new era of cultural production. This module explores key ethical concerns in the digital cultural industry and proposes strategies for navigating them responsibly.

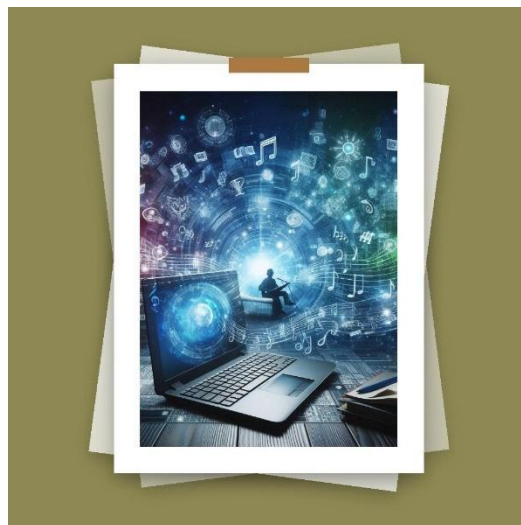
One of the primary ethical concerns in the digital cultural industry is the issue of intellectual property rights. The ease of digital reproduction and distribution has made it increasingly difficult to protect creative works from unauthorized use and infringement. Piracy, illegal downloading, and the unauthorized sharing of copyrighted material pose significant threats to the livelihoods of artists, writers, musicians, and other content creators. Moreover, the rise of digital platforms and social media has blurred the lines of ownership and attribution, raising questions about who holds the right to profit from cultural products and creative expressions.

Moreover, the digital cultural industry faces ethical challenges related to labor rights and fair compensation. The gig economy and the rise of digital platforms have reshaped the labor landscape, offering new opportunities for freelancers and artists and creatives. However, these platforms often prioritize efficiency and cost-effectiveness over the well-being and rights of workers. Freelancers may face precarious working conditions, exploitation, and inadequate compensation, raising questions about the ethical responsibility of digital platforms and employers to ensure fair and equitable treatment.



What brings the new digital era in the Art?

For the culture sector, the increasing importance of digital technologies requires consistent review of legislation on intellectual property rights. EU rules in this area reflect the changing digital landscape in order to ensure the rights of artists and organizations are protected, and broad access to culture is safeguarded for the future. Furthermore, audiences and markets are increasingly online, highlighting the need to apply the proper policies to online trading, taxation, and the establishment and operation of businesses.



Streaming has become the major distribution channel for some creative activities. The Internet has made it possible to distribute creative work online, by creating innovative services such as streaming, online publishing, software, digital art, and photography, and artificial intelligence. For instance, streaming platforms such as Spotify and Google's YouTube have become the main vehicles for music to reach people and the industry's principal revenue generator.

As streaming became widespread, more so since the COVID-19 pandemic, streaming platforms have come to control music distribution and revenue. Spotify and YouTube account for three-quarters of all streams globally. Together with dominant digital platforms such as Apple and Amazon, four companies dominate the market. This dominance gives platforms like Spotify the power to charge important fees to labels big and small for the right to reach audiences. Prior to streaming, a record label would get 70 per cent of every album sale, while the rest would pay all of the labour-intensive services required to make, distribute, and sell a record. With streaming, the distribution is similar so that the remaining 30 per cent goes entirely to streaming platforms like Spotify. The levels of royalty payments to content producers are criticized as low by several major and independent artists.

Independent artists and small businesses face additional challenges in an industry dominated by a handful of streaming platforms on which content creators depend to distribute their artwork. The music industry including the digital streaming market is already very concentrated, thereby making the industry very inequitable vis-à-vis the artists.

Piracy: especially digital piracy, is a significant issue. It prevents many creative workers, especially in developing countries, from earning rightful profits from creative industry copyrights. Because of piracy and the lack of efficient royalty collection mechanisms, developing countries miss out on individual payments and gains, taxable income, public funds. But they also lose opportunities to construct a self-sustaining economy.

- Moreover, the primary industries of recording, production, and distribution are not the only ones to suffer.
- Secondary industries of marketing and communications media, ancillary manufacturing of materials and merchandise, artists' agents, and specialist agencies also lose incomes or fail to develop. Intellectual property rights need to rely on strong institutional frameworks.

The scope and application of intellectual property rights (IPRs) in the digital environment are unclear. IPRs protect creativity in original works. But the IPR system was designed for an analog environment.

Digital reproductions, multiple sharing, and new business models like streaming represent a value in the digital domain but a challenge for copyright experts. In the music industry, for example, artists received royalty fees for each sold phonogram. However, in streaming platforms, royalties are not linked to downloads but a negotiated percentage of subscription fees.

Independent artists often find themselves with weak negotiating power against music labels or streaming platforms.

New and emerging technologies raise other issues as well:

- Can used e-books be re-sold?
- Are platforms liable for unauthorized uploaded content?
- Does data mining with artificial intelligence require copyright fees?



AI-Generated Content in CCI: As artificial intelligence continues to advance, new uses for it are being discovered that could significantly change the way creative industries operate. Particularly, one of these uses is known as generative AI, which, as described by IBM: “It refers to deep-learning models that can generate high-quality text, images, and other content based on the data they were trained on.”

The use of generative AI can bring about positive change, allowing users to reach new creative potentials only possible with advanced technology. However, just as the rise of AI chat bots such as Chat GPT brought with it questions about where limits on AI should be placed, AI-generated content becoming a part of mainstream culture raises its own ethical concerns that are important for both users and developers to consider.

On the social media app TikTok, it is a current trend to use AI to mimic the voice of popular singers, allowing users to hear what it would be like if their favourite singer did a cover of a song by another artist.

Some more important issues in the CCI digital environment

1. **Cultural Appropriation:** This is a contentious issue where elements of one culture are adopted or used by members of another culture without permission or understanding. It raises questions about respect, exploitation, and power dynamics, particularly when marginalized cultures are involved. Sensitivity and awareness are essential to avoid perpetuating harm.
2. **Representation and Diversity:** The cultural and creative industries play a significant role in shaping societal narratives and perceptions. Ethical considerations arise when it comes to accurately representing diverse voices and experiences, avoiding harmful stereotypes, and promoting inclusivity in content creation and consumption. While digital technologies have the potential to amplify marginalized voices and democratize access to culture,

production, they also risk perpetuating existing inequalities and stereotypes. Cultural appropriation, whitewashing, and the underrepresentation of minority perspectives remain prevalent issues in the digital cultural industry, reflecting broader power dynamics and structural inequalities within society. Content creators and digital platforms must therefore strive to foster inclusive and authentic representations that reflect the diversity of human experiences and perspectives.

3. **Freedom of Expression vs. Harm:** Balancing the right to freedom of expression with the need to prevent harm, such as hate speech or incitement to violence, is a complex ethical challenge. Content creators must navigate this balance responsibly, recognizing the potential impact of their work on individuals and communities.
4. **Privacy and Data Protection:** With the increasing digitization of cultural products and platforms, concerns about privacy and data protection have become more pronounced. Collecting, storing, and using personal data ethically and transparently is crucial to maintaining trust with audiences and complying with relevant regulations.
5. **Labor and Fair Compensation:** Ensuring fair compensation and working conditions for all individuals involved in the creation and distribution of cultural products is an ethical imperative. This includes artists, writers, performers, as well as behind-the-scenes workers such as technicians and support staff.
6. **Environmental Sustainability:** The environmental impact of cultural production, including factors such as resource consumption, waste generation, and carbon emissions, is an increasingly important ethical consideration. Adopting sustainable practices and reducing ecological footprints are essential for the long-term viability of the industry.

The need for transparency in the CCI

Another ethical consideration in the digital cultural industry is the need for transparency and accountability in data collection and usage. Digital platforms and streaming services collect vast amounts of user data to personalize content recommendations and target advertising. However, concerns have been raised about the ethical implications of data mining, including issues of privacy, consent, and algorithmic bias. The misuse or exploitation of user data for commercial

or political purposes can have profound societal implications, undermining trust in digital platforms and threatening



individual autonomy.

Content creators, digital platforms, policymakers, and consumers all have a role to play in fostering a more ethical digital environment. Content creators should adhere to principles of integrity, respect, and social responsibility in their creative practices, while digital platforms should prioritize user privacy, data security, and algorithmic transparency. Policymakers must enact regulations that protect intellectual property rights, promote diversity and inclusion, and safeguard labor rights in the digital cultural industry. Finally, consumers have the power to demand ethical behavior from content creators and digital platforms by making informed choices and supporting ethical alternatives.

Examples

An article from Guardian states that these databases used by generative AI programs used by popular companies such as Midjourney and Stability AI are often created by collecting billions of pictures off the Internet, **without obtaining consent from the original artist.**

Another **ethical question** that is up for debate is whether an AI should be able to flawlessly copy the style of another artist without their permission. Many artists believe that the answer to that question is no, saying that AI using reference pictures from an artist is no different from a human mimicking the style of an artist and then passing it off as their own.

A main issue with the use of AI in CCIs is the loss of human expression and emotion, which, to many, is what makes a truly “art.” Likewise, the fact that AI is trained on existing trends and data sets could result in a decline in quality or uniqueness of AI-generated products.

The amount of support given to AI-generated work largely depends on the individual’s own preferences and beliefs about where lines should be drawn.

While advancements in technology, such as those in the field of artificial intelligence, are generally regarded as beneficial for their potential to improve existing systems and create new solutions, **it is important to reflect on whether these technologies are fair, usable, and beneficial to everyone.**

Additional Materials:

- <https://www.unesco.org/en/articles/unesco-unites-diverse-perspectives-inform-policies-ai-creative-secto>
- <https://academychronicle.com/8835/science-technology/ai-generated-content-in-creative-industries-the-et>
[l-concerns/](#)
 - [Audiovisual and Media Services | Shaping Europe's digital future \(europa.eu\)](#)
 - [Online platforms and e-commerce | Shaping Europe's digital future \(europa.eu\)](#)