Bringing ethical and human-centric 'intelligence' into AI:

the recorded music industry's perspective

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IMI Position Paper

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EXECUTIVE SUMMARY

- The AI technology offers a wide opportunity for artists and creators to enhance the creative process, provide an immersive listening experience, organize music in playlists, and offer recommendations, as well as create new experiences for listeners.

- However, Generative AI also poses serious concerns for the music sector, including songwriters, performers, and rights holders, ranging from infringement of copyright to viral fakes, and several other transgressions leading to a gradual displacement of human artistry and human labor by AI.

- To reach the goal of a USD 100 billion media and entertainment industry by 2030, it is necessary for the Government of India to install sufficient guardrails in the form of guidelines and principles for the use of AI that respects copyright while ensuring responsible and accountable AI.

1. Introduction

Imagine a popular song by Kishore Kumar being recast convincingly into the voice of Mohammed Rafi. Or Paul McCartney releasing an unfinished Beatles song after using AI tools to reproduce John Lennon's voice.

Neither is hard to imagine at a time when Artificial Intelligence (AI) is rapidly traversing uncharted territory. While the Beatles track is on the way,[1] numerous Hindi songs too have been re-vocalised,[2] and more would be in the pipeline.

Both these examples point to the fast-expanding capabilities of AI. At the Indian Music Industry (the apex body that represents and protects the business and trade interests of the recorded music industry in India), we believe the potential of this technology is truly exciting, but it is also a growing cause for concern.

The excitement and enthusiasm are not unfounded. Modifications to music such as those cited above can be immeasurable and constructive when executed through Generative AI – which is essentially tools that enable the generation of images, videos, literary works, and music for various applications, based on requests and inputs by creators and users.

Music produced through AI interventions already covers a wide range: Compositions, where an AI tool can be asked to create a tune that is calming and ideal for studying;[3] Remixing – for example, recasting Hip Hop beats into a Western Classical genre; Re-vocalising (like the Kishore Kumar to Rafi song),[4] whereby any lyrics can be transformed into the voice of your choice; Translating, through which voices are translated into various languages [5], [6] – for example, rendering a Tamil song in Hindi, or one from Spanish into Marathi.

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[1] https://news.bloomberglaw.com/ip-law/john-lennon-ai-revival-adds-to-debate-over-ip-rights-of-the-dead
[2] https://www.dnaindia.com/entertainment/report-sidhu-moose-wala-sings-via-deepfake-in-new-song-mera-na-breaks-the-internet-with-3-million-views-in-2-hours-3034876
[3] Google's MusicLM https://googlemusiclm.com/
[4] OpenAI's Musenet https://openai.com/research/musenet; https://www.kits.ai/
[5] Meta's Voicebox https://about.fb.com/news/2023/06/introducing-voicebox-ai-for-speech-generation/
[6] MIDNATT used by Hybe, https://www.reuters.com/technology/k-pops-biggest-music-label-hybe-looks-lift-language-barrier-with-ai-2023-07-19/

Considering these vast possibilities, the music industry is inevitably using the technology in ways never imagined until recently, even recreating the voice of deceased artists – such as the new Beatles song that will be released later this year by McCartney (with the consent of the copyright holder). [7]

There are numerous other instances of the music industry employing AI: for example, Universal Music Group recently entered "a first-of-its-kind strategic relationship" with generative AI sound wellness startup Endel to create AI generated functional music (such as music for sleep, for running and so forth).[8] Similarly, HYBE Corporation is using AI technology to translate the vocals of artist Midnatt into six different languages.[9, 10]

Artists and creators are also using AI to enhance the creative process, to provide an immersive listening experience, to organise music in playlists, and to provide recommendations as well as create new experiences for listeners.[11]

2. A wide range of concerns and recommendations

Clearly, the possibilities opened by Generative AI in the universe of music are unprecedented. However, these same tools are also of serious concern to the entire music sector, including songwriters, performers, and right holders. These concerns range from infringement of copyright to viral fakes, and several other transgressions. So, amidst all the opportunities and enthusiasm for the technology, Generative AI is also raising fundamental questions of copyright and rights related to the protection of an artist's personality.

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[7] https://timesofindia.indiatimes.com/etimes/trending/sir-paul-mccartney-extracts-john-lennons-voice-to-complete-an-unfinished-beatles-song-using-ai/articleshow/100993850.cms?from=mdr#:~:text=McCartney%20said%20that%20they%20had,a%20collaboration%20of%20the%20group

[8] https://www.universalmusic.com/endel-and-universal-music-group-to-create-ai-powered-artist-driven-functional-music-designed-to-support-listener-wellness/

[9] https://www.billboard.com/music/pop/artificial-technology-kpop-artist-midnatt-hybe-interview-1235329459/

[10] HYBE (formerly Big Hit Entertainment) is a music company based in Seoul, South Korea

[11] https://www.musicbusinessworldwide.com/tunecore-partners-with-grimes-to-distribute-her-ai-collaborations/

For example, in April 2023, Generative AI was employed by third-party creators to imitate popular Canadian RnB singers Drake and the Weeknd without prior permission of the right holders. This resulted in a fake song titled *Heart on My Sleeve*,[12] which garnered 275,000 streams on YouTube and 625,000 streams on Spotify before being taken down for copyright violations.[13]

On July 13, 2023, NASSCOM, the apex trade body of the IT sector in India,[14] released guidelines for responsible AI. The guidelines advocate human-centric AI development and use that elevates human creativity. They also highlight strict compliance with IP (intellectual property) laws, and the importance of maintaining transparency about the use of Generative AI during the creation of intellectual properties.[15]

The Advertising Standards Council of India also released a white paper on August 1, 2023, discussing the impact of Generative AI in advertising, its risks, opportunities, and best practices. The Council has stated that the use of Generative AI tools in advertising can displace creative labour, and emphasised the importance of prior permission in using copyrighted content.[16]

The Indian government too recognises the growing role of technology in music. While inaugurating the Pandit Jasraj Cultural Foundation in January 2022, Prime Minister Narendra Modi spoke of taking Indian music to the global stage, and called for a revolution of technology and IT in the domain of music.[17] The media and entertainment field is a "sunrise sector," said Union Minister of Information and Broadcasting, Anurag Singh Thakur, at a conference in Pune in June 2022. He set a goal of USD 100 billion or Rs 7.5 lakh crores for the industry by 2030. [18]

To reach these milestones it is crucial for the Government of India to install guardrails and guidelines for the use of AI, and ensure that the technology is used responsibly. In

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[12] https://www.nytimes.com/2023/04/28/podcasts/the-daily/ai-deepfake-drake.html
[13] https://www.theguardian.com/music/2023/apr/18/ai-song-featuring-fake-drake-and-weeknd-vocals-pulled-from-streaming-services
[14] The IT sector in India contributed nearly $194 billion, a growth of ~9% and an addition of ~$16 billion over FY2022[14] and in June 2023
[15] https://www.nasscom.in/ai/img/GenAI-Guidelines-June2023.pdf
[16] https://www.ascionline.in/wp-content/uploads/2023/08/Kco-WhitePaper-GenAI-D11-DIGITAL_LowRes.pdf
[17] https://www.aninews.in/news/national/general-news/pm-modi-launches-pandit-jasraj-cultural-foundation-calls-for-globalization-of-indian-music20220128164044/
[18] https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1837074

the absence of responsible and ethical usage, a gradual but complete displacement of human artistry and human labour by AI could become a significant risk.

The industry presently provides work to millions. A September 2022 Indian Council for Research on International Economic Relations (ICRIER) report notes that the informal music industry in India is a source of livelihood for almost 14 million people, including DJs, brass band members, sound engineers, independent artists, musicians, teachers and small-scale manufacturers.[19]

Additionally, considering the possible misuse of Generative AI, it is imperative to ensure that evolving AI systems respect and preserve India's centuries-old traditions of music and storytelling, which foreground human creativity. Without these safeguards, wrongful use of AI could mutilate and misrepresent India's music culture.

For the recorded music industry in India, these various avenues of the potential misuse of AI are clearly of great and growing concern.

The proposed Digital India Act is an opportunity to substantively address some of these concerns. The Act is being formulated as a legal framework for the IT sector. The government plans to bring into the law's ambit various policy guardrails and principles to regulate AI and other emerging technologies.[20]

While doing this, the government should ensure that copyright is respected and remains an inviolable guiding principle. Robust safeguards will protect the creative industry and help preserve India's centuries-old unique cultural output.

India will not be alone in adopting such laws and policies. In May 2023, the annual summit of G7 countries released the Hiroshima Declaration, which too calls for discussions on AI governance, safeguards for intellectual property rights including copyright, and other measures.

We, the IMI, request the government to consider the following questions and concerns while drafting the proposed guardrails.

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[19] https://indianmi.org/wp-content/uploads/2022/09/The-Untold-Potential-of-India-s-Informal-Music-Industry-1.pdf
[20] https://www.meity.gov.in/writereaddata/files/DIA_Presentation%2009.03.2023%20Final.pdf

What are the recorded music industry's main concerns about Generative AI?

Infringement of copyright remains a central cluster of concerns, and the transgressions can take various forms:

1. 'Training' of Generative AI using copyright protected material, including sound recordings and music cover art, without authorisation.[21] There is evidence of AI developers collecting/scraping and ingesting copyright protected content without authorisation. This material is largely lifted from the internet, including but not limited to, unauthorised content available on User Uploaded Content (UUC) platforms. This creates a situation where the creators and copyright holders are effectively subsidising the development of AI.

2. Use of the artist's name, image, likeness, or voice without their knowledge or authorisation, including in some cases to create deep fakes.

3. A lack of transparency regarding the use of copyright protected material in Generative AI processes. The opacity in AI 'learning' processes makes it highly impossible for right holders to determine whether their works have been used in an AI process.

How do we address the urgent need for authorisation and accountability in AI interventions in music?

1. In keeping with fundamental principles of copyright, the use of copyright protected works or recordings in AI processes should require prior authorisation by the right holders.

2. It follows that in instances where copyright protected works are used and/or made available in parts or as a whole in the AI process without authorisation from right holders, AI developers (including those using works to 'train' AI) and the deployers of

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[21] AI Training is a field-specific term that means the inputting of large amounts of data to identify and extrapolate correlations, relationships, patterns and trends in that data that can then be used to make inferences, predictions, decisions and recommendations in the future.

AI applications must consistently be held liable for infringement of copyright under India's current copyright laws.

3. Artists rights in their name, image, likeness and voice must be recognised and respected. For instance, AI generated vocals 'trained' on recordings (stems) extracted from recordings amount to a violation of the (uncodified) Right to Publicity, which deceives consumers and constitutes an unfair trade practice.

4. To protect right holders against unauthorised use of their works in an AI process, and to ensure that AI is developed and deployed in a generally safe manner, AI developers, including providers of Generative AI tools, and deployers must be required to implement meaningful record-keeping mechanisms. These records will make it possible to keep track of the use of what is being used to train the AI and to create the AI outputs.

5. Purely AI generated outputs, without sufficient human involvement, should not attract copyright protection. Copyright protection must remain the exclusive preserve for original human creativity. We recommend implementing measures to use appropriate labels/watermarks highlighting that a work is purely AI generated. This will alert digital *nagriks* that they are consuming unlawful, fake and/or misleading content. However, using AI as a tool for human creative expression should not disqualify works from copyright protection.

What are the implications of AI for human creativity in the music industry?

1. While the potential benefits of Generative AI in the music industry are many, it is crucial to preserve the unique artistry of musicians and artists, and ensure that AI tools complement and enhance human creativity rather than replace or diminishing it.

2. With the leaps in technology, it is feasible for AI to accurately mimic the voice or likeness of any artist through extensive 'training'. When done without authorisation, and for commercial gain, this means significant losses for the artist. The remedy is to recognise the importance of consent and fair market licensing in AI development.

3. Music in India is an art form with deep cultural roots, and emotional resonance – these are attributes that only human beings are uniquely capable of creating. However, AI is inert – that is, it does not contain cultural awareness and emotional capabilities, and cannot fully comprehend or carry forward the essence of music in the same way as humans.

The creative sectors are united in calling for guardrails around AI

IMI endorses the principles of the Human Artistry Campaign, which puts human creativity at the core of copyright protection.[22] The key principles to consider when framing a robust policy for the beneficial development of responsible AI technology are:

1. Copyright protected works must only be used with prior authorisation.

2. Adequate transparency obligations must be imposed on AI developers, Generative AI service providers and users of Generative AI to ensure an ethical, responsible and artist-centric AI technology. The absence of record-keeping should amount to a presumption of infringement.

3. Copyright protection cannot be granted to purely AI generated works.

4. Personality/publicity rights of human artists should be respected and adhered to by developers, service providers, and users of Generative AI.

All these measures will help ensure that Generative AI thrives as a technology that enhances rather than threatens human creativity.

In addition to these principles, we urge the government to consider the following measures to more effectively utilise AI technology:

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[22] The Human Artistry Campaign is an outcome of a broad coalition (called the Human Artistry Coalition, comprising more than 150 organisations) of musicians and artists launched in Texas in mid-March 2023. https://www.humanartistrycampaign.com

1. The Centres of Excellence (CoE) for Artificial Intelligence[23] proposed by the Ministry of Electronics and Information Technology must bring within their ambit a focus on the role of AI in enhancing the growth of the music sector, and in enabling exports of Indian music. The CoEs must monitor the proposed guardrails to prevent further erosion of the economic value of copyright protected material due to AI, and enable innovation that allows Indian content to travel across the globe.

2. The CoEs could also be utilised as a forum to develop scalable AI models that help prevent online piracy. Globally, the music sector is among the most impacted by rampant piracy (after film and television) with a total of 10.8 billion music piracy websites visits from January to September 2021. India is identified as one of the top sources of traffic for music piracy globally.[24]

We must act to prevent this, as other countries are doing. For example, in June 2023, South Korea's Ministry of Science and ICT highlighted its intention to develop an AI anti-piracy tool to prevent the resurfacing of illegal online video distribution sites[25] (OTT) that provide unauthorised access to South Korean content.

3. A national joint-committee must also be set up, with representatives from the government, right holders representing the creative sector, AI technology companies, non-profits, academia and civil society members, aimed at collaboratively finding governance and technical solutions to promote responsible and human-centric AI technologies.

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[23] https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1895302
[24] https://www.akamai.com/resources/state-of-the-internet/soti-security-pirates-in-the-outfield
[25] https://torrentfreak.com/korea-will-deploy-anti-piracy-ai-after-major-piracy-site-reincarnation-230621/