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# Study on the Incentive Effects of Copyright for Generative Artificial Intelligence on Various Stakeholders

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From time to time, the IPI publishes studies on intellectual property topics. The studies are intended to contribute to the public discussion. The opinions expressed by the authors do not necessarily reflect those of the IPI.

# Foreword

If you ask ChatGPT what three points are important in a foreword to a study on the topic of generative artificial intelligence (AI), the program gives a relatively unspectacular response: ‘introduction to the subject and the relevance of the study; the study’s objectives and topics; overview of the study’s methodology and structure’. It then generates a template for a foreword of this kind in a matter of seconds.

This is a typical example of the output that generative AI systems can produce today. They can provide fairly unoriginal input for routine work much more quickly than the humans who currently carry out this work. This can make the creative workers in question more productive if they use AI as a new tool. However, it’s also to be expected that current knowledge and the corresponding skills will be devalued and that the people concerned will have to find new careers. AI doesn’t differ in this dichotomy from other technological advances made in the past.

There’s a whole series of studies that come to precisely this result based on theoretical considerations. But what do the affected people themselves think? To find out, we commissioned the consulting firm PwC to carry out a large-scale study on how people in the creative sector in Switzerland feel about the subject. PwC publishes the Swiss Entertainment & Media Outlook every year and has a great deal of experience with this kind of analysis. The responses from over 600 participants and various interviews with experts provide a detailed insight into the creative industry and confirm that the new technology is perceived as both an opportunity and a threat in Switzerland too. The authors use four scenarios to show how the situation might develop, depending on future framework conditions.

I’m very grateful for this snapshot of the situation in Switzerland. It’s one of the elements that will assist us in appraising developments. It will also help us answer the question of whether action is needed with respect to the legal framework. Hence, it will allow us to take appropriate steps, where necessary.

ChatGPT didn’t instruct me to thank anyone, but I’d nonetheless like to express my gratitude to all those involved, both at PwC and here at the IPI. I’d also like to thank all those who took part in the survey or agreed to be interviewed. Without them, this study wouldn’t have been possible.

**Catherine Chammartin**
Director General of the Swiss Federal Institute of Intellectual Property

Bern, October 2024

# Vorwort

Fragt man ChatGPT, welche drei Punkte in einem Vorwort zu einer Studie zum Thema «generative künstliche Intelligenz (KI)» wichtig seien, antwortet das Programm relativ unspektakulär «Einführung in das Thema und die Relevanz der Studie; Zielsetzung und Fragestellungen der Studie; Überblick über die Methodik und den Aufbau der Studie» und reicht innert einiger Sekunden eine Vorlage für ein solches Vorwort nach.

Dies ist ein typisches Beispiel für die Leistung, zu der generative KI-Systeme heute fähig sind. Sie können wenig originelle Inputs für Routinearbeiten, welche bisher von Menschen übernommen wurden, sehr viel schneller als diese erstellen. Das kann zum einen den Effekt haben, dass die betroffenen Kreativen produktiver werden, weil sie KI als neues Werkzeug nutzen. Zum anderen ist aber auch zu erwarten, dass bestehendes Wissen und entsprechende Fertigkeiten entwertet werden und die betroffenen Personen sich umorientieren müssen. In dieser Ambiguität unterscheidet sich KI nicht von anderen technologischen Sprüngen in der Vergangenheit.

Es existiert eine ganze Reihe von Untersuchungen, die aufgrund theoretischer Überlegungen auf genau diese Resultate kommen. Wie beurteilen das aber die Betroffenen selbst? Um das herauszufinden, haben wir das Beratungsunternehmen PwC beauftragt, eine gross angelegte Studie zur Befindlichkeit der Mitglieder der Kreativbranche in der Schweiz zu verfassen. PwC gibt jährlich den Swiss Entertainment & Media Outlook heraus und hat damit viel Erfahrung mit entsprechenden Analysen. Die Antworten der rund 550 Teilnehmenden und diverse Interviews mit Expertinnen und Experten geben einen detaillierten Einblick in die Kreativbranche und bestätigen, dass die neue Technologie auch in der Schweiz sowohl als Chance als auch als Gefahr wahrgenommen wird. Die Autorin und die Autoren zeigen in vier Szenarien, wie – je nach künftigen Rahmenbedingungen – die Entwicklung weitergehen könnte.

Ich bin dankbar für diese Momentaufnahme der Situation in der Schweiz. Sie ist für uns eines der Elemente, die uns bei der Einordnung der Entwicklungen unterstützen. Zudem wird sie uns helfen, die Frage zu beantworten, ob Handlungsbedarf mit Bezug auf den Rechtsrahmen besteht. Dies ermöglicht uns, falls notwendig, entsprechend zu reagieren.

Auch wenn die «Vorgaben» von ChatGPT das nicht vorgesehen haben, so füge ich sehr gerne noch meinen Dank an alle Beteiligten an, sowohl bei PwC als auch bei uns am IGE. Dieser Dank geht aber auch an alle, die bei der Umfrage mitgemacht oder sich als Interviewpartnerinnen und -partner zur Verfügung gestellt haben. Ohne sie wäre diese Studie nicht möglich gewesen.

**Catherine Chammartin**
Direktorin des Eidgenössischen Instituts für Geistiges Eigentum

Bern, Oktober 2024

# Avant-propos

Si l'on demande à ChatGPT de citer les trois points essentiels d'un avant-propos à une étude sur l'intelligence artificielle (IA) générative, le programme répond sobrement « Introduction du thème et pertinence de l'étude ; objectifs et questions de l'étude ; aperçu de la méthodologie et structure de l'étude », et livre en quelques secondes un modèle dans ce sens.

Ce résultat est un exemple typique du service que des systèmes d'IA générative sont capables de fournir de nos jours. Ils sont en mesure de produire, nettement plus rapidement que des humains, des contenus peu originaux pour des travaux de routine qui étaient jusqu'à présent effectués par des personnes. Cette situation peut avoir pour effet de rendre les esprits créatifs plus productifs, car ils se servent de l'IA comme d'un nouvel outil. Mais on peut également s'attendre à une dévalorisation du savoir existant et des aptitudes correspondantes forçant les personnes concernées à se réorienter. Cette ambiguïté n'est pas propre à l'IA, mais inhérente à toutes les avancées technologiques advenues dans le passé.

Il existe toute une série d'analyses reposant sur des réflexions théoriques qui arrivent aux mêmes constats. Mais qu'en pensent les personnes concernées ? Pour le savoir, nous avons demandé à la société de conseil PwC de réaliser une vaste étude sur l'état d'âme des membres de la branche créative en Suisse. PwC publie chaque année le *Swiss Entertainment & Media Outlook* et dispose donc d'une solide expérience en matière d'analyses sur le sujet. Les réponses des plus de 600 participants et participantes et divers entretiens avec des experts et des expertes fournissent un aperçu détaillé de la branche créative et confirment, qu'en Suisse aussi, la nouvelle technologie est perçue à la fois comme chance et comme danger. L'autrice et les auteurs dévoilent dans quatre scénarios dans quel sens les choses pourraient évoluer en fonction de différentes conditions-cadres futures.

Je suis reconnaissante de disposer de cet instantané de la situation en Suisse. Il constitue un point de repère pour évaluer les développements dans ce domaine, et qui nous aide aussi à comprendre s'il est nécessaire d'agir concernant le cadre juridique, et, si besoin, de développer une réponse adéquate.

Même si ChatGPT ne l'a pas mentionné dans ses « instructions », j'ajoute avec grand plaisir mes remerciements à toutes les personnes impliquées, tant chez PwC que chez nous à l'IPI. Ces remerciements s'adressent aussi à toutes celles et à tous ceux qui ont participé au sondage ou qui se sont prêtés au jeu de l'interview. Sans toutes ces personnes, cette étude n'aurait pas pu voir le jour.

**Catherine Chammartin**
Directrice de l'Institut Fédéral de la Propriété Intellectuelle

Berne, octobre 2024

# Prefazione

Se si chiede a ChatGPT quali sono tre punti importanti in una prefazione a uno studio sul tema dell'intelligenza artificiale (IA) generativa, il programma risponde in modo poco spettacolare «Introduzione all'argomento e rilevanza dello studio; obiettivi e quesiti alla base dello studio; panoramica della metodologia e della struttura dello studio» e presenta in pochi secondi un modello per una corrispondente prefazione.

Questo è un tipico esempio delle prestazioni di cui sono capaci oggi i sistemi di IA generativa. Sono in grado di creare molto più rapidamente degli umani input poco originali per compiti di routine, che finora erano svolti da persone. Da un lato, questo può avere l'effetto di rendere i creativi più produttivi, perché utilizzano l'IA come un nuovo strumento a loro disposizione. Dall'altro, però, è anche prevedibile che le conoscenze esistenti e le relative competenze vengano svalutate e che le persone interessate debbano reinventarsi. In questa sua ambiguità, l'IA non è diversa da altre evoluzioni tecnologiche del passato.

Esistono svariate indagini che arrivano proprio a queste conclusioni sulla base di considerazioni teoriche. Ma cosa pensano i diretti interessati? Per scoprirlo, abbiamo commissionato alla società di consulenza PwC uno studio su larga scala sull'atteggiamento nei confronti dell'IA dei membri dell'industria creativa in Svizzera. PwC pubblica ogni anno lo Swiss Entertainment & Media Outlook e ha quindi una solida esperienza nelle analisi in questo settore. Le risposte di oltre 600 partecipanti e varie interviste agli esperti forniscono una panoramica dettagliata dell'industria creativa e confermano che anche in Svizzera la nuova tecnologia è percepita sia come un'opportunità che come un pericolo. Gli autori mostrano in quattro scenari come la situazione potrebbe svilupparsi ulteriormente, a seconda delle future condizioni quadro.

Sono grata per questa istantanea della situazione in Svizzera. È uno degli elementi che ci aiuta a valutare gli sviluppi in questo ambito, ma anche a capire se vi sia necessità di intervenire per quanto concerne il quadro giuridico, permettendoci di reagire di conseguenza, se richiesto.

Anche se l'output di ChatGPT non lo prevedeva, vorrei aggiungere i miei ringraziamenti a tutte le persone della PwC e dell'IPI coinvolte in questo progetto. Desidero inoltre ringraziare tutti coloro che hanno partecipato al sondaggio o si sono resi disponibili per le interviste. Senza di loro questo studio non sarebbe stato possibile.

**Catherine Chammartin**
Direttrice dell'Istituto Federale della Proprietà Intellettuale

Berna, ottobre 2024

# Contents

# Executive Summary

Generative AI is a rapidly evolving technology that has the potential to transform the creative industry and society in various ways, both positively and negatively. A survey and interviews conducted with different stakeholder groups in the Swiss creative sector reveal diverse and nuanced perspectives and experiences regarding the use and impact of generative AI.

Generative AI has the potential to transform the creative industry. This may include:

- **Timesaving and efficiency**: Generative AI can automate tedious, repetitive, or low-value tasks, thus freeing up time and resources for higher-level creative work.
- **Innovation and experimentation**: Generative AI can generate new ideas, styles, or forms of art, thus expanding the creative possibilities and fostering innovation and experimentation.
- **Support with creativity and ideation**: Generative AI can help spark creativity and overcome writer's block.
- **Enhanced speed and volume of output**: AI can generate work quickly and allows creators to produce a higher volume of work.

However, these do not represent the views of all respondents. There are differing views on the impact of generative AI on the creative industry, with some expressing scepticism, concern, or outright opposition to its use. Some of the challenges and risks to the creative industry include, but are not limited to:

- **Quality and originality**: Generative AI may produce low-quality content or infringe on the originality, authenticity, or ownership of existing content, thus affecting the value of the creative industry.
- **Ethics and responsibility:** Generative AI can raise ethical and social issues such as bias, manipulation or accountability, and therefore requires clear and transparent guidelines and regulations for the use and impact of generative AI. Generative AI also blurs the understanding of ownership of a work and the conditions under which a work can be considered a "work" as currently defined by law.
- **Skills and education:** Generative AI requires new skills and competencies, such as digital literacy, technical proficiency, and critical thinking, thus demanding continuous learning and adaptation for the creative industry.

Over 500 responses indicate that there is no clear consensus or answer to the use of generative AI in the creative sector. Nevertheless, generative AI is a powerful and promising tool that can enhance and transform the creative industry and society but requires careful and responsible management and governance.

The survey responses and interview discussions begin to outline that the current legal and regulatory frameworks may not yet be appropriately adapted to address the novel challenges posed by generative AI, particularly regarding ownership and rights protection. Transparency and accountability have also been regularly flagged as critical to prevent abuses of creative works and generative AI, as well as to maintain trust and credibility among creators and consumers. Education and skill development are seen as essential to bridge the gap between expectations and realities of generative AI, as well as to empower stakeholders to engage with AI in a meaningful and safe way.

The impact of generative AI on the Swiss creative sector continues to reveal a complex interplay of opportunities and challenges, shaped by different stakeholder perspectives. As generative AI becomes increasingly prevalent, Switzerland needs to address the gap between "commodity" creative work and high-end creative endeavours, fostering an environment conducive to innovation while safeguarding the rights and interests of creators and AI developers. In addition, the results show that there is a need for a common understanding of what generative AI is within the creative industry and for disclosure when it is used in work. The survey supported the development of four possible scenarios for the future of generative AI and the creative industry. These suggest that the level of involvement of generative AI will have a significant impact on the way that the creative industry develops and continues to produce

creative works, including the interest and incentives of creators and consumers, and market power dynamics. However, these findings can only offer a snapshot of the perspectives currently held at the time of writing. It is expected that with the rapid developments of AI, the creative sector will continue to shape their perspectives and opinions.

# 1 Introduction

## 1.1 Relevance of the Study

In recent years artificial intelligence (AI) has emerged as a formidable force in the realm of creativity. Its capabilities extend across a spectrum of creative outputs, encompassing text, imagery, music, film, fine and applied arts, architecture, and beyond. For example, the advent of AI enables the creation of digital twins for human voices, revolutionizing the production of advertisements, animated films, audiobooks, songs, and choreographies. While this is one instance within a spectrum of technological advancements impacting creative professions, such technological strides present those in creative professions with new opportunities and challenges, while simultaneously challenging established norms and perceptions in the creative domain. Beyond this, the rise of AI has the potential to disrupt the commercialisation of such works and the way intellectual property law currently affords protection.

## 1.2 Aim of the Study

This study aims to shed light on the current and future shifts in the landscape of Switzerland's creative industry in the wake of generative AI's rising prominence. Employing an interdisciplinary approach, it examines the changes from economic, social, and ethical viewpoints. The study's findings are intended to inform the Swiss Federal Institute of Intellectual Property (IPI) and to provide a foundation for potential recommendations regarding adjustments to the regulatory framework. This involves exploring the broad implications on copyright law and identifying areas potentially influenced by these regulations.

## 1.3 Study Design

The study employs the following main methodological steps to identify and assess these changes:

1. Background and Overview of International and Swiss Regulatory Developments: The starting point of the study is a broad-based analysis of recent legal and commercial developments, both nationally and internationally.

2. Stakeholder Analysis: At first, a comprehensive survey of Swiss stakeholders in the creative industry is conducted to gauge the use and perception of generative AI in a bottom-up manner. This is complemented by in-depth semi-structured interviews with selected stakeholders based on purposive sampling.

3. Scenario Development: The findings from the preceding analysis are developed into various scenarios. These scenarios, created in workshops together with the IPI, illustrate potential future directions for managing generative AI in art, influenced by differing regulatory incentives.

4. Scenario Analysis: The scenarios are examined from economic, social, and ethical perspectives. This includes among other things assessing the impact of AI on the incentive structures for different stakeholders, societal shifts due to structural changes in the economy, and the ethical implications arising from potential social inequalities in the art or labour market.

## 1.4 Scope

First, the study focuses on generative AI which refers to AI systems that are trained on large amounts of data from the physical and virtual world to generate data themselves (e.g., texts, images, sound recordings, videos, simulations, codes). They are often multimodal, e.g., with inputs and/or outputs in one or more modalities (e.g., text, image, video). Various "model architectures", including "diffusion models" and "transformer-based models", can be used for generative tasks.[1] Second, this study adopts a bottom-up approach, differing from the predominantly top-down academic and legal perspectives prevalent in existing analyses of generative AI and intellectual property law. While international developments pertinent to Switzerland are considered, the study does not aim for a comprehensive international legal comparison. Third, the exploration of what constitutes art, and the definition of an artist is limited to its necessity in addressing the study's core questions. Lastly, the study does not derive any concrete recommendations for policy makers but identifies areas of interest that might be considered when discussing policy actions.

## 1.5 Structure

The following sections are structured as follows: Section 2 presents findings from the analysis of current developments, and stakeholder perspectives. Section 3 analyses the survey results based on economic, social, and ethical implications and legal implications. Section 4 analyses the interviews conducted. Section 5 outlines the development of the scenarios and the insights gained thereby. In section 6 we draw conclusions from the previous sections.

# 2 Background and International and National Developments

The following sections provide an overview of the current debate on the impact of generative AI in the creative industries and the regulatory challenges and approaches in this regard, gleaned from literature and reports. Based on this overview, "change dimensions" and "regulatory dimensions" are derived, the former describing the economic, social, and ethical impacts and the latter the parameters for shaping potential regulatory approaches.

## 2.1 Impact of Generative AI on the Creative Industries

### *2.1.1 Economic and Social Implications*

The emergence of generative AI has been a disruptive force in the creative industries. Switzerland's entertainment and media industry experienced its second-strongest year of growth in 2022, with revenues of CHF17.5bn[2]. The emergence of generative AI will further fuel this growth, as the industry is expected to be a major beneficiary of generative AI, with the second-highest productivity potential of all industries[3]. As such, generative AI will reshape the landscape of creativity and content production across various fields[4].

A basic understanding of the creative industry's value chain helps understand its potential impacts on the creative industry and its stakeholders' roles as listed in Chapter 1. There are several models that illustrate the value chain, yet the following elements are alike.

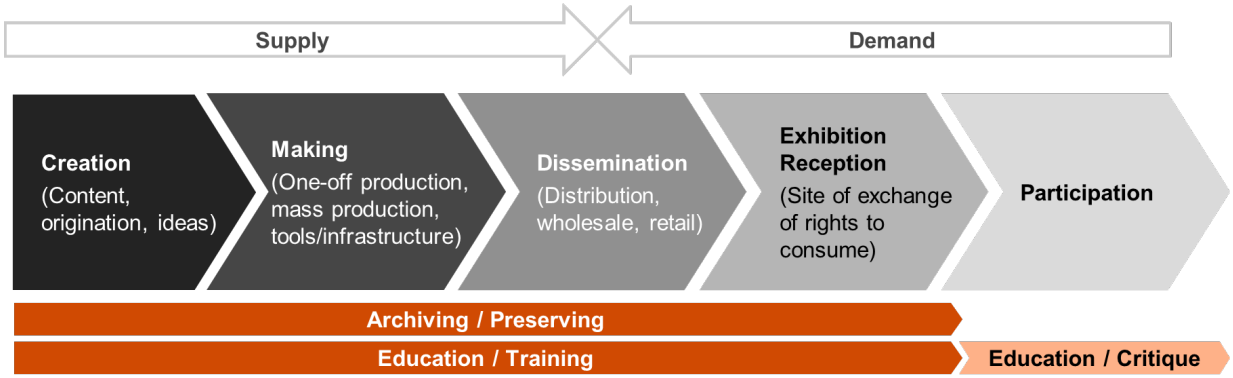


*Figure 1: Graphical Illustration of the Value Chain of the Creative Industry[5]*

Generative AI might be applied across the value chain. It can be applied for creation, such as idea generation, for production, such as sampling in music studios, or for marketing and support tasks during dissemination exhibition, such as chatbot interactions for consumers. In the visual arts, artists are for example utilizing Generative Adversarial Networks (GANs) to produce AI-generated art, achieving recognition in galleries and auctions[6]. The literary and marketing sectors are experiencing a revolution with models like GPT-3, which assist in crafting diverse written content.[7] Rie Kudan, Japanese author and winner of the country's top prize for literature, has admitted to using ChatGPT to write some parts of her book and unlocking her potential.[8] Similarly, the music industry is embracing generative AI for composing music tailored to specific emotional tones[9], while the gaming industry benefits from generative AI in creating rich, immersive virtual worlds.[10]

This shift is not just about AI as a tool; it is evolving into a distinct medium with unique affordances.[11] Innovative applications like the Music Latent Diffusion Model (MusicLDM) are emblematic of the emerging co-creative relationship between humans and AI, transforming poetry into music and redefining artistic collaboration.[12] It also indicates that the process of which work is created is redefined. Generative AI can allow for time efficiency and cost saving, thus allowing time to be spent on other areas of the creative process.

However, the economic implications of this technological leap are double-edged. As generative AI holds the potential to automate up to 26% of tasks in the arts and design sector, this raises concerns about job displacement across various creative fields.[13] Despite these challenges, generative AI is simultaneously creating new opportunities and enhancing productivity by automating repetitive tasks. This shift is expected to lead to the emergence of new roles focused on integrating generative AI into creative workflows.

The introduction of generative AI is catalysing significant changes in the value chain and individual business models within the creative sector. Traditional revenue streams are being redefined as generative AI introduces new ways to monetize creative work. For instance, artists can use generative AI to more easily create personalized outputs based on individual customer preferences, targeting a customer base that is willing to pay a premium to get content from specific artists but can't afford personalized, exclusively human-generated content.[14] Yet, there is also new competition arising for creative workers. Consumers, distributors, and others with no "traditional" creative skill set are enabled to create works to a certain degree of originality and complexity on their own (e.g., simple layout works). Creative workers could also create output specifically for the purpose of training AI models and get paid for it.[15] Furthermore, content curation will likely increase in value, as more people seek guidance and orientation due to the enormous amount of generated content. Curation may also happen before any images are generated. Selecting the right content for a dataset on which to train an artificial neural network to get the output of the desired form and quality could also become a highly valued skill.[16]

As generative AI becomes more prevalent, the skillset required for professionals in the creative industries, and all industries, is rapidly evolving. There is a growing demand for skills that complement AI capabilities, such as data literacy, AI ethics, and the ability to work collaboratively with AI systems. Creative professionals are increasingly expected to be adept not just in their traditional craft, but also in interacting with and guiding generative AI tools.[17] This evolution extends to educational institutions and training programs, which must update curricula to include AI-related skills.

Generative AI allows for more output and greater accessibility to creative works. Generative AI is also influencing consumer behaviour in the creative industries. For one, there is an increasing demand for personalized content.[18] AI's ability to tailor products and experiences to individual preferences supports companies to fulfil this increasing demand more easily.[19] At the same time, there is a growing appreciation and premium for human-created content.[20] Consumers are seeking authentic experiences and value the unique creativity that only humans can provide. This dichotomy between AI-generated and human-created content is shaping consumer preferences and behaviours, leading to a more diverse and dynamic creative market.

#### *2.1.2 Ethical Implications*

Generative AI is not only transforming the economic landscape but also significantly influencing the social and ethical dimensions within the creative industries. The acceleration of content creation democratization is a notable example. With generative AI tools becoming increasingly accessible, a broader range of individuals can engage in creative endeavours, challenging traditional barriers to entry. This democratization can foster a more inclusive creative environment, where diverse voices and perspectives are represented, and drive innovation.[21]

However, this shift also brings forth complex ethical considerations. The ease of creating and disseminating AI-generated content raises questions about originality, authenticity, and the ethical use of such technologies, as well as the moral responsibility of the developers and user of these systems. One critical issue is the potential dilution of human creativity. As AI-generated art becomes more prevalent, it may lead to a homogenization of artistic expression, overshadowing the unique attributes that distinguish individual artists.[22] Furthermore, there are concerns surrounding the use of existing copyrighted works to train AI systems and whether these works are being incorporated with the explicit permission of the original creators and how their work can be protected despite such uses.

Another challenge is that AI algorithms, inherently reliant on existing data, often reflect societal biases and prejudices. Biased or incomplete training data can result in algorithms that perpetuate stereotypes and biases. This is particularly evident in cultural representations, where generative AI can produce content that is biased, discriminatory, or perpetuates harmful stereotypes.[23] Such issues are especially acute in the portrayal of different groups based on race, gender, and culture, potentially leading to inaccurate and offensive representations. There have been instances where generative AI technologies seem to misinterpret or distort text prompts, especially concerning the depiction of Black people in images. In other cases, they may stereotype or censor aspects of the history and culture of minorities, such as African Americans in the USA.[24] These issues raise significant concerns about the impact of generative AI on marginalized communities and underscore the need for stringent ethical guidelines and diverse data sets in generative AI development.

### *2.1.3 Technological Outlook*

Looking ahead, the influence of generative AI on the creative industries is poised to grow exponentially in power and speed. Advancements in AI models and their increasing integration into everyday work processes will fundamentally alter how creative industries operate. Future AI systems are likely to become more powerful and autonomous, evolving into AI Agents capable of pursuing goals with minimal or no human involvement.[25] The emergence of such AI Agents is expected to bring even more profound changes to the creative industries. These changes will not only redefine the nature of creative work but also raise new ethical and social questions.

### *2.1.4 Change Dimensions*

As discussed above, the impact of generative AI on the creative industries is vast and multifaceted, touching upon various dimensions including incentive structures, market dynamics, ethics, and several others. For the purpose of this study and as an analytical foundation, the following dimensions were derived to systematically cluster the impact introduced in the previous sections:

**1. Incentive Structures and the Value of Traditional Creative Work:** Generative AI has sparked debates on the value of human creativity versus AI-generated content. As AI advances, there's a growing need to reassess how we perceive and financially value human-made art. This challenges traditional incentive structures for human artists and tool developers alike, raising questions about copyright, originality, and the essence of creativity.[26]

**2. Market Dynamics and Power:** The integration of generative AI into the creative industry could alter competitive dynamics, potentially benefiting larger companies that can invest in AI technologies. This might put smaller creators at a disadvantage, creating a need for policies that ensure equitable access and competition.[27]

**3. Shifts in Business Models for Creative Workers:** Generative AI introduces new ways for artists and creative professionals to produce and monetize their work, necessitating adaptations in business practices and the emergence of new roles within the creative industries. This includes the potential for AI to act as collaborators, co-creators, or even competitors.[28]

**4. Democratization of Content Creation:** Generative AI lowers barriers to content creation, allowing individuals without traditional creative skills to produce art, literature, and more. This could lead to a more diverse array of voices and perspectives, enriching the creative landscape.[29]

**5. Innovation in the Creative Process:** The advent of generative AI allows for new ways of working in the creative process facilitating innovative outputs. This also prompts a re-evaluation of legal frameworks to stimulate such innovation while addressing issues like copyright infringement and the ethical use of AI in creative processes. Policymakers and industry stakeholders must navigate these challenges to foster a conducive environment for creative innovation.[30]

**6. Technological Advancement:** Generative AI represents a significant technological advancement, offering new tools and platforms for content creation and distribution. This necessitates ongoing research and development to harness its full potential while mitigating risks.[31]

**7. Education and Skill Development:** The rise of generative AI changes the landscape of education and skill development in creative fields. New curricula that incorporate AI literacy alongside traditional creative skills are essential to prepare future generations for a transformed industry.[32]

**8. Consumer Behaviour and Engagement:** Generative AI alters how consumers interact with and perceive creative content, influencing preferences, engagement patterns, and the overall consumer experience. This shift requires creative industries to adapt their strategies to meet changing audience expectations.[33]

**9. Social Inequality in the Art and Labour Market:** There are concerns that generative AI could exacerbate social inequalities within the creative sector, particularly regarding access to technology and opportunities. Ensuring equitable access and addressing disparities is crucial for fostering a diverse and inclusive creative industry.[34]

**10. Global Influence and Local Identity:** The global spread of generative AI technologies challenges local creative industries to maintain cultural identities and practices. Balancing global trends

with the preservation of local traditions is vital for nurturing a rich and diverse global creative landscape.[35]

## 2.2 Legal Implications

### *2.2.1 Legal Challenges of Generative AI in the Creative Industries*

Generative AI has raised significant legal challenges to the concepts of originality, authorship, and copyright ownership, which are critical to the creative industries and their commercial and non-commercial incentives. Two main challenges have been identified. The first is the attribution of IP rights (output perspective)[36], and the second is the use and remuneration of training data (input perspective).[37] Some of the pressing questions arising from these challenges are as follows:

- Who is the author of an AI-generated work and what rights do they have?
- How does the originality requirement apply to AI-generated works?
- What are the potential liabilities of AI creators, trainers of AI, users, and distributors for infringement of copyright?

The legal status of AI-generated works and the rights and liabilities of their creators, users, and distributors, is a complex and evolving topic in Switzerland and globally. To date, depending on the level of human involvement and creativity in the generation process, AI-generated content may or may not qualify as a protected work under the existing legal frameworks.[38] Different jurisdictions may have different approaches and criteria for granting copyright protection, be it originality, creativity, effort, or own intellectual creation, yet there is common ground. For example, the Berne Convention, the EU law, the Swiss law, and the UK law, all require in a certain way, that a work is the expression of the author's own intellectual creation.[39] Following *Cofemel*, a "work" is an independent concept and as such eligible for IP protection when the following two criteria are met:

- It must represent an original intellectual creation of its author, and
- only elements expressing such a creation should be considered a "work".[40]

In other words, according to the Court of Justice of the European Union, an object is original only if it reflects its creator's personality, showing their own intellectual and creative decisions.[41] Particularly important under the current copyright laws, the author of a work is the natural person who created it.[42] For example, both Germany and other European countries consider that a work must originate from a human creator to qualify for copyright.[43] If a work is entirely automated, lacking human input, it currently, cannot be protected by copyright. Like the European laws, deeming that human authorship is essential to a valid copyright claim, the US federal court ruled that AI-generated works are not eligible for copyright protection in a case of a computer scientist seeking copyright registration for an artwork created by his AI programme.[44]

The US, the EU and Switzerland currently agree regarding the centrality of human beings in the copyright process. Nevertheless, there are ongoing discussions about in what capacity AI-generated work could be copyright protected. Copyright protection for the output may be granted in most if the generative AI only slightly supports in the creation of a work. Similarly, if a prompt largely and clearly dictates the result, copyright could apply, however, this would have to be determined on a case-by-case basis. For example, the UK Copyright, Designs and Patents Act 1988 stipulates that in the case of a literary, dramatic, musical or artistic work which is computer generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken.[45]

The second major challenge concerns the training data of AI models. From a copyright perspective, training data are in general unproblematic if material is used that is not subject to copyright or if all rights holders have given their consent. Besides that, there are intensive discussions ongoing about how limitations and exceptions apply with the development of new technologies. Nevertheless, the use of copyrighted material in AI training sets raises significant legal ambiguities, for example under US the fair use doctrine. Academics are currently debating whether the use of such material should be considered "fair training" under US law, and suggest that this use does not significantly interfere with the current rights of copyright owners, but is an important debate for future applications of AI.[46] In contrast, other authors conclude that the fair use doctrine may not adequately protect expressive AI applications, which could lead to either stifling innovation or undermining the rights of human creators.[47] Courts, like academia, are faced with this ambiguity. For example, the New York Times has sued OpenAI

and Microsoft for copyright infringement over the unauthorised use of published works to train AI models.[48]

For generative AI models to be able to produce content at all, they must be trained in advance using large amounts of data. The question of encroachment on the right of reproduction arises primarily because the training material is stored in a database, among other things, which technically requires copying, and as a result, many short-term reproductions are made during the learning process itself.

Given the existing legal ambiguities, exemplified by the dispute between The New York Times and OpenAI, and crucial role of high-quality content in generative AI, technology firms are increasingly seeking collaborations with premier content producers. For instance, Meta has considered acquiring the publishing company Simon & Schuster.[49] OpenAI is engaged in discussions with leading media entities such as CNN, Thomson Reuters, Fox, Condé Nast, and NBC News.[50] Similarly, Apple is actively pursuing partnerships, notably with Condé Nast and NBC News.[51] Amazon is in dialogue with the BBC.[52] Moreover, Microsoft and OpenAI have successfully finalized several agreements, including with Axel Springer, Associated Press, and Le Monde.[53] Furthermore, OpenAI has developed the Whisper software, designed to transcribe YouTube videos.[54]

The World Intellectual Property Organisation (WIPO) has been discussing with Member States copyright protection for AI-generated works, and whether to grant copyright protection to the human or legal entity that initiates, controls, or benefits from the AI process.[55] Nevertheless, the pressure and discussion still very much focus the fact that on the one hand, copyright protection may provide an incentive for generative AI developers to invest in innovation and quality, and to share and license their AI-generated works, as they can expect to receive compensation and recognition for their contribution. On the other hand, copyright protection may also create barriers and costs for accessing and using AI-generated works and may raise ethical and social concerns about the fairness, accountability, and transparency of the generative AI process, and the impact on the rights and interests of original human authors and the public domain.

These legal aspects are critical to the creative industries and their commercial and non-commercial incentives. Against this background, there are different perspectives and arguments regarding the need and the scope of protection for AI-generated content. Some discussions surrounding copyright and AI suggest that protecting AI-generated content could foster innovation and reward investment, while others contend that it could threaten the production and dissemination of traditional creativity and impair the public interest.[56] Moreover, the discussions and debates indicate that there are potential risks and benefits of investing in projects involving AI-generated content, as well as new business models and licensing practices that could emerge in the AI-driven creative landscape.[57]

#### *2.2.2 Regulatory Approaches and Discussions in Switzerland*

In Switzerland, there is no specific legislation that comprehensively addresses the topic of copyright and generative AI, but some general principles and guidelines can be derived from existing laws and doctrines, such as the Federal Act on Copyright (CopA), the Federal Act on Data Protection (FADP), and the Swiss Civil Code (CC). As outlined in the previous section, this situation leads to ambiguity in certain areas. In such a situation, policymakers face a critical choice between developing a dedicated, comprehensive legal regime or relying on existing IP-related laws supplemented by judicial interpretations. This choice depends on an assessment of the flexibility of the current legal framework to address the unique challenges posed by generative AI in the context of innovation and IP protection.[58] A dedicated legal regime would need to carefully address issues such as rights in AI-generated works, the use of copyrighted material in the training of AI, and the equitable distribution of benefits arising from AI innovations.[59] This approach requires a holistic view that anticipates future developments in AI and ensures that the legal framework is robust enough to meet evolving challenges. In summary, a specialised regime could provide targeted solutions, while the adaptation of the existing framework could promote a gradual evolution of legal interpretations.

In this regard, there are ongoing political discussions in Switzerland. Already in 2018, the Federal Council has incorporated AI as a pivotal element of the "Digital Switzerland" strategy (and renewed in 2024).[60] The strategy aimed to foster the development and use of digital technologies, for the benefit of society and the economy. In 2019, the federal administration published a report on the challenges and the need for action, including the existing and potential legal issues arising from the use and

development of AI, such as the attribution of authorship and ownership, the protection of data and algorithms, the accountability of AI and operators, and the ethical and social implications of AI.[61] The report concluded that the current Swiss legal framework is generally adequate and adaptable enough to accommodate the developments and innovations of AI, but that some adjustments and clarifications may be needed in specific areas, such in IP and that the appropriateness may change quickly given the landscape.

Until recently, Switzerland's position was to take a hands-off approach to regulating AI so as to not stifle innovation. However, with the increased visibility of AI through platforms like ChatGPT, international developments like the US President's Executive Order on AI and the EU AI Act, there is an increased pressure for the Swiss Government to address the topic. Thus, the Federal Council has instructed the Federal Department of the Environment, Transport, Energy and Communications (DETEC) and the Europe Division of the Federal Department of Foreign Affairs (FDFA) to examine different regulatory approaches to AI. The Federal Council announced in November 2023 that it wants to harness the potential of AI while minimising the risks it poses to society, with potential regulations by the end of 2025.[62] However, like the debate on the EU AI Act discussions surrounding AI regulation in Switzerland rather prioritise broader topics such as data protection, algorithmic accountability, and ethical considerations. While these are crucial aspects of AI governance, there is a notable gap when it comes to addressing IP rights and protection within AI regulatory frameworks.

#### *2.2.3 Regulatory Dimensions*

The ongoing discussions outlined above can be summarised in three main regulatory dimensions that require the attention of policymakers. The first is the level of **human involvement required for securing IP rights**. As discussed above, the emergence of generative AI challenges the fundamental principles of the IP framework, in particular the threshold of human involvement (Geiger, 2023).[63] A nuanced aspect of this debate is whether the act of providing a prompt to an AI system constitutes sufficient human input to warrant IP protection. This discussion extends to the provocative question of whether an AI agent itself could or should be recognised as an owner of IP rights. This issue calls into question traditional notions of creativity and authorship and requires a reassessment of what constitutes "creation" in the digital age. To date, there is no legal or academic consensus on how to address this challenge.

The second is the **use and compensation of training data protected by copyrights** for the development of AI models. This issue requires a detailed discussion and clarification of a sensible copyright regime in the context of generative AI. Again, there is no legal or academic consensus. The third is the **comprehensiveness and specificity of the legal framework** in the context of generative AI and IP. As mentioned above, there is still no consensus on whether to establish a dedicated, comprehensive legal regime or to rely on existing IP-related laws supplemented by judicial interpretation (or something in between). This decision would also require clarification of how training data protected by copyrights must be used and compensated.

## 2.3 Key Learnings from the Current Discussions

**Economic, social, and ethical implications** (see Change Dimensions): AI-generated works have the potential to enhance the creativity, productivity, and diversity of human creators, as well as to provide more choice and variety for consumers and audiences. However, they also pose challenges for the attribution, compensation, and reputation of human authors, as well as for the quality, originality, and authenticity of the works themselves across the value chain of the creative industry. They further raise ethical questions about the responsibility, accountability, and transparency of the AI process, as well as the moral rights and dignity of human authors. Moreover, they may have implications for the cultural and social values, norms, and identities that are embedded and expressed in creative works.

**Legal implications and action areas** (see Regulatory Dimensions): There is no clear consensus or uniform approach on how to deal with AI-generated works and use and compensation of training data under the existing legal frameworks. Different jurisdictions have different criteria and standards for determining the authorship, ownership, and protection of AI-generated works, as well as the liability and remedies for any infringements or harms caused by them. Some jurisdictions have explicitly excluded AI-generated works from protection, while others have recognized the possibility of granting protection to human or legal entities involved in the generative AI process. As a result, both academics

and policymakers see a need for further research, dialogue, and coordination among various stakeholders and policy makers to address the legal uncertainties and challenges posed by AI-generated works.

Some possible action points include developing guidelines and best practices for the ethical and responsible use of generative AI in creative domains; clarifying the scope and extent of protection and exceptions for AI-generated works; establishing mechanisms for the identification, attribution, and licensing of AI-generated works; and ensuring the access, preservation, and enrichment of the public domain and cultural heritage.

# 3 Analysis of Survey

## 3.1 Methodology

### *3.1.1 Survey Design*

The survey design was informed by a review of the existing developments on generative AI, creativity, and stakeholder engagement within the creative sector. This review identified key stakeholders and highlighted the diverse roles, interests, benefits, challenges, and risks associated with the adoption of generative AI.

The survey was structured to encompass two main components: general questions applicable to all respondents and category-specific inquiries tailored to six distinct stakeholder groups. The stakeholder categories included: (1) creators; (2) creative intermediaries and distributors such as auctions, museums or publishers; and (3) creative industry professionals and businesses including design agencies and consultants; (4) industry organisations and advocacy groups such as associations and federations engaging in policy-making, research and lobbying; (5) academics and policymakers, and (6) consumers and end users who consume various forms of art be it as a buyer of painting or music listeners. These categories were chosen to reflect the diversity of roles and interests in the creative sector and are described in more detail in Appendix 1.

The survey comprised a mix of open-ended and closed-ended questions. General questions focused on demographic information (e.g., location, occupation) and respondents' usage of generative AI, applicable to all stakeholder groups (part 1). Category-specific questions addressed stakeholders' perceptions, experiences, benefits, challenges, risks, and opportunities associated with generative AI within their respective domains (part 2). The survey questions are to be found in Appendix 4.

### *3.1.2 Sampling and Data Collection*

The survey received a robust response with a total of 549 respondents. Of these, 410 respondents submitted both part 1 and part 2, with questions in part 2 being optional. As shown in [Figure 2], creators were the largest group of respondents with 44% of the total number of respondents. The aim for the stakeholder groups 1-4 was to collect a sample size large enough to achieve a confidence level of 95% and a margin of error[a] of ±5%. In Switzerland, a total of 390'000 persons were employed in the creative economy in the third quarter 2023[64], including advertising and marketing, architecture, design (product, graphic and fashion), crafts, film, TV, video, radio and photography, publishing, museums, galleries and libraries, music, performing and visual arts.[65] 478 members of the stakeholder groups 1-4 participated in and submitted at least part 1 of the survey, resulting in a margin of error ±4% with a confidence level of 95%. Thereof, 365 persons have submitted both part 1 and 2, resulting in a margin of error ±5% with a confidence level of 95%. Stakeholder groups 5 and 6 are not part of the creative industry. Nevertheless, they have been included into the survey to grasp additional perspectives, yet with no ambition to collect a comprehensive sample size.

To further assure a broad coverage, several additional strategies were employed. First, data collection was conducted over a period from September 2023 to January 2024, using the online survey platform Qualtrics, offering a user-friendly interface and robust data collection capabilities. The online format facilitated broad participation and accessibility across different stakeholder groups and geographical regions. Furthermore, the survey was made available in four languages (German, French, Italian and English) to accommodate diverse linguistic preferences and ensure inclusivity. Second, to maximize response rates across regions and occupations, participants were contacted through multiple channels, including the distribution via dedicated industry associations and social media. Reminders were sent periodically to increase participation. To ensure anonymity and confidentiality, personal identifying information was not collected. Participants were informed about the purpose of the study, its voluntary nature, and how the data would be used, in accordance with ethical research standards.

[a] The margin of error is a way of saying how much one can expect the results of a survey or poll to differ from the actual opinion of the entire population. It's a small range around the survey results that shows where the true answer probably lies. For example, if a poll says 60% of people like something with a margin of error of ±5%, the real percentage of people who like it could be anywhere from 55% to 65%.

Figure 2 and the figures found in the appendices illustrating the occupations within the stakeholder groups show that the distribution across and within the categories provides a diverse dataset that captures insights from a wide range of stakeholders in the field of generative AI and copyright.

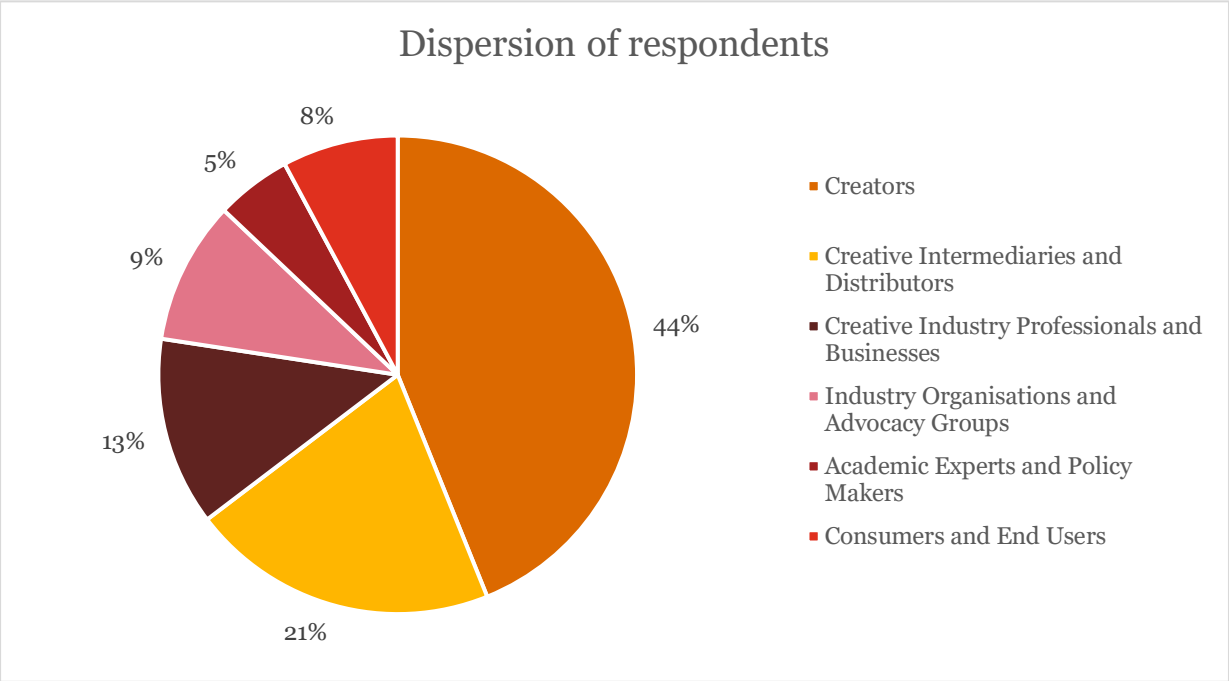


*Figure 2: Dispersion of all 549 Respondents [Question A.3]*

Geographically, most of the respondents were based in Zurich or Aargau [Figure 3 and Figure 4]. Ticino, on the other hand, had the fewest responses. The distribution of responses per region corresponds to the distribution of jobs in the creative industries across the main regions of Switzerland.[66]

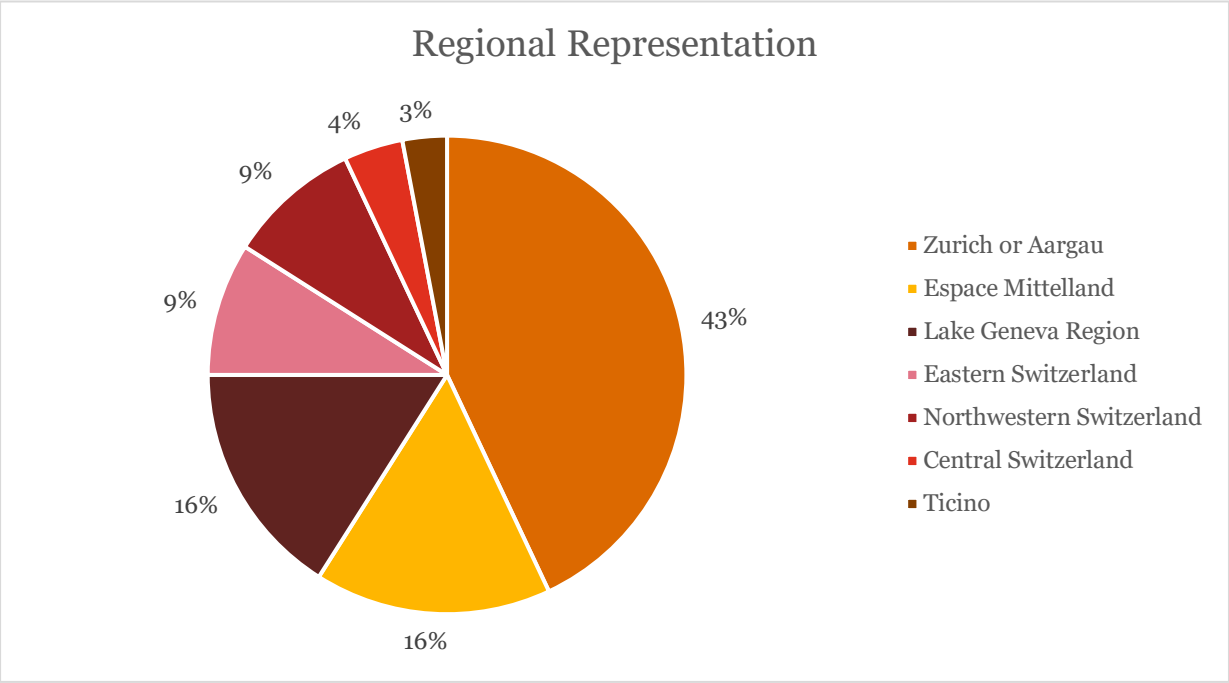


*Figure 3: Regional Representation of all 549 Respondents [Question A.1]*

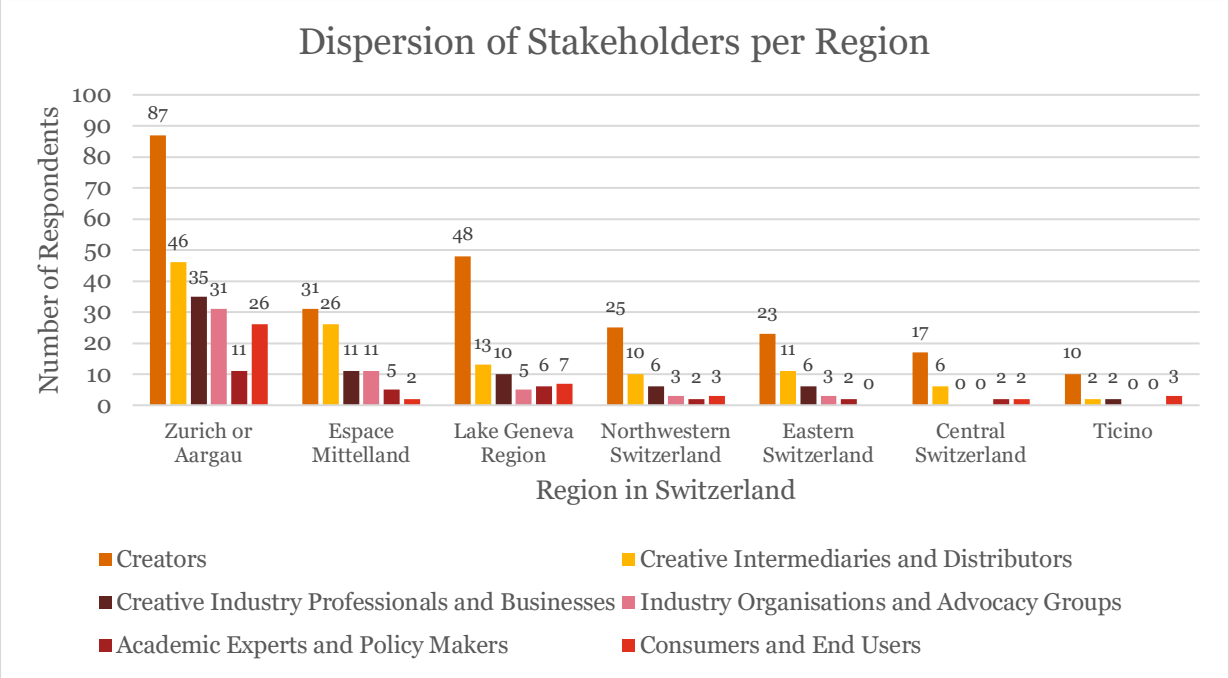


*Figure 4: Dispersion of all 549 Respondents per Region in Switzerland [Question A.1 and A.3]*

### *3.1.3 Data Analysis*

The data collected through the survey was subjected to both quantitative and qualitative analysis techniques. Quantitative data was analysed using statistical methods to identify trends and patterns, while qualitative responses were subjected to thematic analysis to extract key insights. The survey included both mandatory questions for all participants (Part 1) and additional non-mandatory stakeholder-specific questions (Part 2). Section 3.2 presents the results of Part 1. Section 3.3 compares the responses to the Part 2 questions that were common to several stakeholder groups.

It is possible that certain stakeholder-specific questions were not answered by all respondents, either because of the nature of the questions or because of uncertainty about the most appropriate response. Consequently, there may be cases where the number of responses does not correspond to the total number of respondents identifying themselves within a particular stakeholder category.

## 3.2 Results – Adoption of Generative AI in the Creative Industries

The following paragraphs summarise the main insights of the survey with regard to the general adoption of generative AI by the stakeholder groups 1 to 4 and their underlying motivations.

**Insight 1: The creative industry is largely embracing generative AI, while some parts remain sceptical.**

The results suggest that generative AI is not yet a mainstream, indispensable tool for all respondents. From the free text responses, those who use generative AI, even occasionally, have varying levels of familiarity with, access to, or motivation to explore its potential applications. Some respondents discussed using generative AI to experiment and understand its capabilities, while others use it to generate videos. Nevertheless, 63% of all respondents use generative AI in some way and with some frequency [Figure 5]. 19% of all respondents plan to explore generative AI in their work in 2024, suggesting a cautious but evolving approach to integrating these technologies into their creative processes.

Alternatively, 18% of all respondents explicitly state that they have no intention of using generative AI in their work, highlighting a proportion of respondents who remain uninterested or perhaps cautious about integrating this technology into their workflows. Concerns about the use of generative AI are broadly consistent across stakeholders and regions.

Those who expressed no interest in incorporating AI into their work emphasised the intrinsic nature of human creativity and expressed scepticism about the ability of generative AI to contribute meaningfully to artistic endeavours. Such concerns include potential plagiarism, concerns about reliability, the ethical use of generative AI, the lack of individuality in AI-generated works, and the impact of high data and energy consumption. Some are concerned about the societal implications, such as the displacement of jobs and the loss of human values in creative work.

The results of the survey align with a prevailing sentiment that has been widely discussed internationally and locally (please see section 2). This sentiment is that art is a deeply human process that cannot effectively be delegated to generative AI, both in terms of creation and consumption. Some respondents emphasise the importance of preserving the human touch in artistic expression, highlighting the value of individual experience and the unique qualities that emerge from their work.

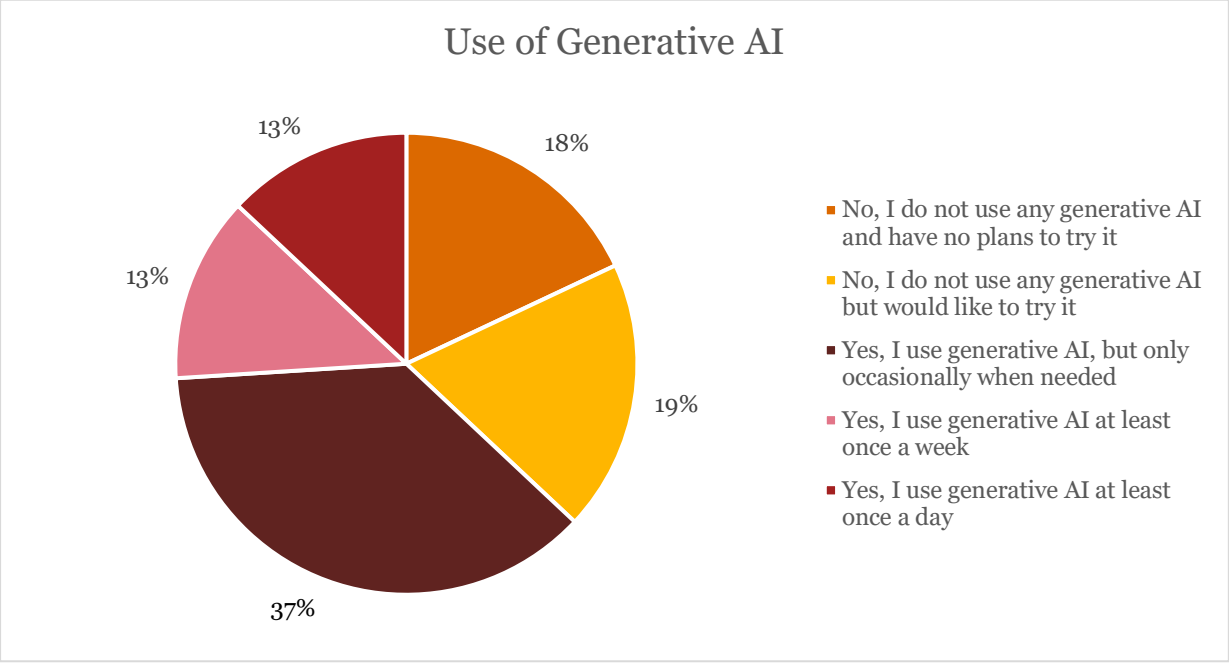


*Figure 5: Use of Generative AI amongst Stakeholder Groups 1-4 (478 Respondents) [Question A.5]*

**Insight 2: Lack of interest or relevance and privacy concerns are the main reasons for avoiding the use of generative AI in the creative industries.**

Figure 6 illustrates that privacy is the primary concern, but lack of understanding, interest and relevance also impede respondents from adopting generative AI. The diverse range of responses reflects the varying attitudes and adoption patterns towards generative AI within the respondent group.

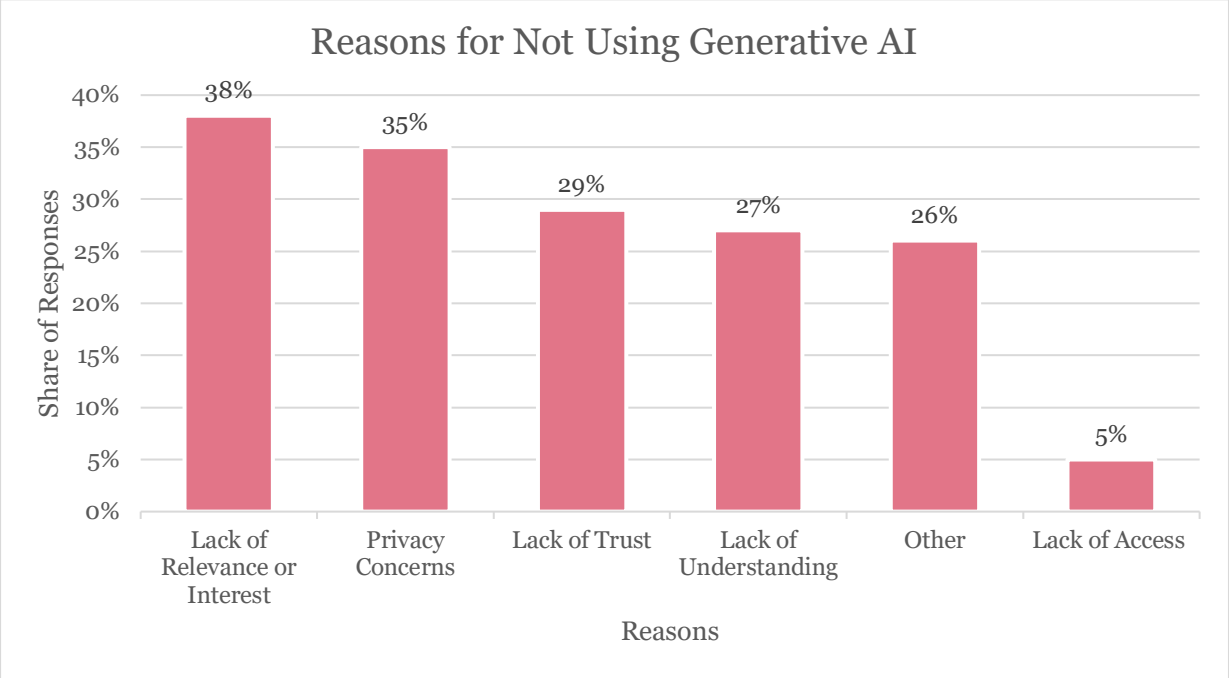


*Figure 6: Reasons for Not Using Generative AI amongst Stakeholder Groups 1-4 (172 Respondents) (Multiple Answers Possible) [Question A.6a] Please refer to Appendix 5 for the "Other" answer options.*

**Insight 3: Both support tasks, such as research and summarisation, and truly creative tasks, such as image generation, are seen as potential use cases for generative AI in the creative industries.**

Those who have incorporated generative AI into their work do so for a variety of reasons. Figure 7 outlines these reasons, with the survey allowing multiple answers. Respondents use generative AI in a variety of ways, from simple translation to the actual production of images. This demonstrates the versatility of generative AI within the creative sector. 16% of respondents said they use generative AI for other purposes. Some respondents are using automated chatbot responses for customer interactions, while others are focusing on coding assistance. There is a notable presence in text-based content generation, ranging from short drafts to generating lyrics for music. This suggests that generative AI is advanced enough to effectively mimic human speech patterns, generating coherent and relevant text. This use could go beyond simple text generation and potentially support tasks traditionally performed exclusively by humans, such as writing articles, lyrics or even film scripts.

In addition to creative processes, respondents indicated that practical applications of generative AI include writing code, organising information, analysing customer sentiment, creating presentations and flowcharts. Respondents also reported using generative AI tools for photo retouching, proposal generation, and CGI (computer-generated imagery) conceptualisation. The wide range of applications reflects the adaptability and broad utility of generative AI across professional and creative domains. This could prove beneficial for interdisciplinary collaboration within industry to revolutionise the products that are created and consumed.

Figure 8 shows respondents who are not currently using generative AI, but have identified potential applications for it. The responses are similar to those of those who have already adopted generative AI, indicating a common understanding of the use cases in the creative industries. However, the few respondents who selected the "other" option expressed concerns about privacy and lack of human intervention. This reflects some lingering reservations among respondents.

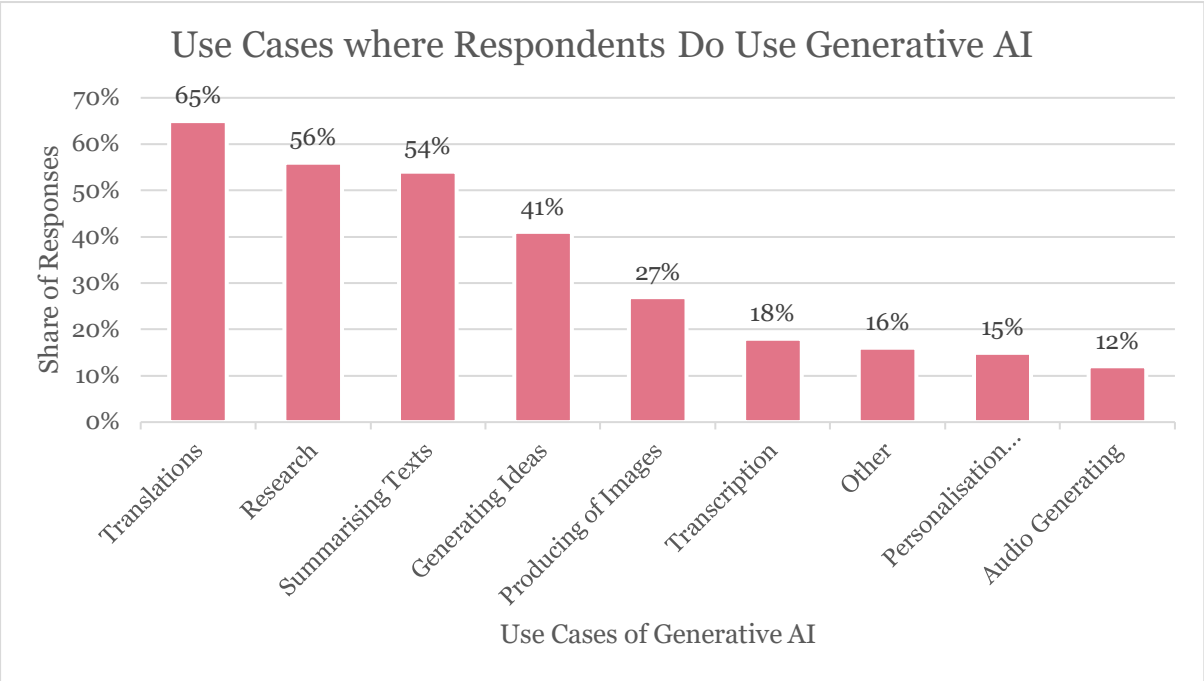


*Figure 7: Use Cases Respondents use Generative AI in their Work amongst Stakeholder Groups 1-4 (306 Respondents) (Multiple Answers Possible) [Question A.6b]* Please refer to Appendix 6 *for the "Other" answer options.*

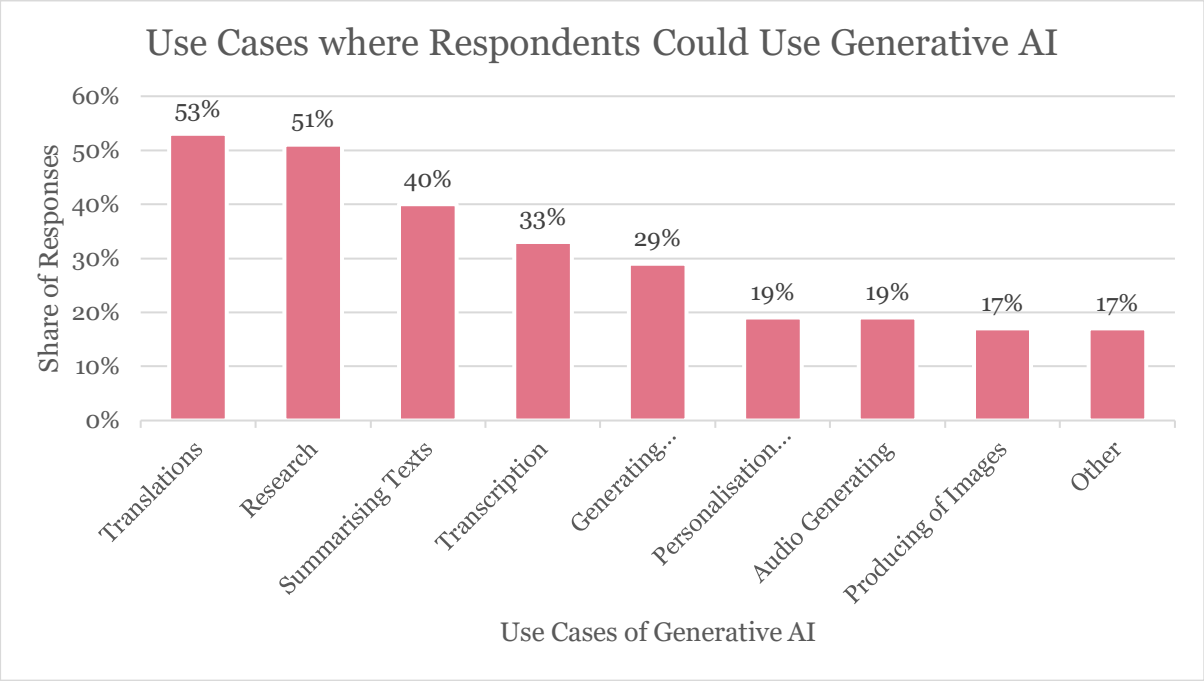


*Figure 8: Use Cases Respondents could use Generative AI in their Work amongst Stakeholder Groups 1-4 (172 Respondents) (Multiple Answers Possible) [Question A.6c]* Please Refer to Appendix 7 *for the "Other" answer options.*

## 3.3 Results – Perspectives of the Stakeholder Groups

The following paragraphs summarise the main insights of the survey, grouped by economic, social, and ethical implications and legal implications, as described in section 2. Each insight includes a reference to the corresponding figure in the appendices, which provides more detailed information. Where a particular stakeholder group is not mentioned in an insight, the question was not asked of that group (see section 3.1.1).

### *3.3.1 Economic, social, and ethical implications*

Many of the survey questions address the economic, social, and ethical implications of generative AI in the creative industries. Based on the change dimensions derived in section 2.1.4, the main insights are presented that address the above implications.

*Incentive Structures and the Value of Traditional Creative Work*

**Insight 4:** On average, creators are neither encouraged nor discouraged to create content by generative AI. However, there is a broad distribution. While 41% are rather indifferent, 29% feel rather discouraged and 30% rather encouraged by the advent of generative AI [Figure 19][b]. This is in line with the uncertainty surrounding the technology and its implications for the creative industries discussed in section 2.

**Insight 5:** Stakeholder groups, in particular intermediaries and distributors (67%), industry professionals and businesses (62%), industry organisations and advocacy groups (76%), and consumers and end users (80%), broadly share the perception that AI-generated content is either entirely or somewhat less valuable than traditional human-generated content. The perception that AI-generated content is less valuable raises concerns about its quality, authenticity, and cultural significance within the creative industries. Certain stakeholders question the uniqueness, creativity and emotional resonance of AI-generated content compared to human-generated content [Figure 15].

**Insight 6:** There is no consensus among creators about the impact of the current uncertainty about copyright attribution of AI-generated and AI-assisted works on their incentive to create works. 45% of creators see a rather low impact and 25% are rather indifferent, while 30% see a rather high impact [Figure 20]. Similarly, there is no consensus among consumers and end users as to whether they would be motivated to create work if the AI-generated content was copyrighted [Figure 41]. However, some respondents indicated that "the output being protected would make people more engaged in producing something that is unique and potentially brings a return on investment/time spent on the specific output".

**Insight 7:** The majority of creators (93%) stressed the importance of copyright protection for their work, with only 5% saying it was not important [Figure 21]. Understanding the importance of copyright protection is fundamental to understanding creators' concerns about integrating generative AI into their creative processes, given the current legal uncertainty.

**Insight 8:** There is no consensus among creators whether the work created with generative AI can still be considered their own intellectual creation, with around 41% rather disagreeing, 25% rather being indifferent and 34% rather agreeing [Figure 22]. Consumers and end users are more likely to agree. The majority (73%) said that the output generated when they use AI tools is to some extent their own intellectual creation [Figure 39]. On the one hand, respondents in both stakeholder groups felt that the outputs were partly their intellectual creation, emphasising that their own inputs, such as prompts and specific questions, significantly shaped the final products. On the other hand, some felt that since generative AI uses pre-existing online information to create outputs, these should not be considered as fully original creations.

[b] Example for interpretation: If the question refers to a scale of 1-10, where 1 is most strongly disagree and 10 is most strongly agree, responses from 1-4 are grouped and presented in the text above as “rather disagree”, 5-6 as “rather indifferent” and 7-10 as “rather agree”.

*Market Dynamics and Power | Shifts in Business Models for Creative Workers*

**Insight 9:** Across all categories of respondents, there is a strong expectation that generative AI will lead to changes in business models and market structures. In particular, the majority of intermediaries and distributors (80%), industry professionals and companies (86%), and industry organisations and advocacy groups (83%) expect such changes [Figure 14]. Academic experts and policymakers share this perspective. 95% expect significant to moderate impact on business models and market dynamics in the creative industry [Figure 33].

**Insight 10:** 38% of intermediaries and distributors admit that the rise of generative AI has had an impact on their decision-making about funding and supporting creative projects. However, the majority (49%) claim that their decision-making has not been affected by the rise of generative AI, and 13% express indifference to its influence [Figure 24]. Though, many of these respondents acknowledge that generative AI has not affected their decision-making process today but is likely to do so in the future.

**Insight 11:** Monetising AI-generated content has not yet posed significant challenges for the majority of professionals and businesses (68%) [Figure 27]. A subset encountered barriers related to legal and ethical considerations of AI-generated works, such as ownership, authorship, and rights, especially when derived from or influenced by existing works and sources. Another challenge mentioned was the quality and reliability of AI-generated works, which often required human review, editing and refinement to ensure accuracy and appropriateness. In addition, some respondents faced challenges in creating and sustaining consumer demand and value for AI-generated works, as consumers may have different expectations, preferences, and willingness to pay for them compared to human-generated works.

*Education and Skill Development*

**Insight 12:** There is a consensus across the surveyed stakeholder groups, in particular intermediaries and distributors (94%), industry professionals and companies (96%), industry organisations and advocacy groups (94%), and academics and policymakers (100%), that the rise of generative AI is expected to create new job opportunities and skill requirements within the creative industries. Only a small minority per stakeholder group (around 5%) reject the idea of new job opportunities arising from the rise of generative AI outright [Figure 16].

**Insight 13:** Perceptions of whether the creative industries have the skills and resources to take advantage of the new employment opportunities vary across the respondent categories. The majority of respondents in each category express some degree of uncertainty or believe that they are only partially prepared. In particular, only 11% of intermediaries and distributors, 31% of industry professionals and businesses, 20% of industry organisations and advocacy groups, and 15% of academics and policy makers are convinced that the creative industries have the necessary skills and resources to realise the potential of generative AI [Figure 17].

**Insight 14:** Across all responding stakeholder groups, large proportions express low to moderate confidence in their ability to identify AI-generated content. Consumers and end users are the least confident (61% of respondents with low to moderate confidence), while creators (47%) and intermediaries and distributors (51%) are slightly more confident [Figure 12].

*Innovation in the Creative Process*

**Insight 15:** Industry organisations and advocacy groups recognise that AI has a dual impact on creative expression - it can both enhance and inhibit it, depending on its use and context. While 41% of respondents see AI as an enabler of creativity, only 8% see it as an inhibitor. However, 51% recognise its nuanced role [Figure 31]. They see AI as adding a new dimension to creativity that can both help and hinder creative efforts. In fact, AI, when aligned with human intent, can greatly enhance creative expression. However, concerns remain that indiscriminate or excessive use could lead to repetitive, derivative content that stifles originality and innovation, creating an echo chamber effect through reliance on pre-existing material.

**Insight 16:** While changes to the law are seen as necessary by many stakeholders (see section 3.3), it is important that innovation is not stifled. With this in mind, academics and policymakers explored how to strike a balance between encouraging innovation and protecting copyright holders. Most respondents suggest that mechanisms to assign copyright to AI-generated content (47%) and flexible licensing

models (41%) could facilitate the dissemination of such content while respecting the rights and interests of human creators. The latter is particularly important in the context of traditional copyright licensing, which is often rigid and grants permissions to specific parties for specific uses of a work. However, as discussed in previous sections, the use of copyrighted material by AI may be more dynamic and unpredictable, making traditional licences less practical [Figure 35].

**Insight 17:** Despite the low confidence in identifying AI-generated content, both consumers and end users (78%) and creative intermediaries and distributors (64%) perceive a significant increase in AI-generated content [Figure 13].

*Consumer Behaviour and Engagement*

**Insight 18:** The majority of consumers and end users (65%) indicated they would engage with art differently if they knew it was not made by humans [Figure 38]. However, this raises the question of how they would know if it was made with generative AI, given the low ability to identify it shown in Figure 12.

*Democratization of Content Creation*

**Insight 19:** Many consumers and end users (44%) stated that the rise of generative AI tools has made them rather more inclined to create content [Figure 40]. Some respondents explain that the ease of access has significantly lowered the barrier to start creating and experimenting. Nevertheless, still 32% of respondents felt rather less inclined, while 24% are rather indifferent.

### *3.3.2 Legal Implications*

An important part of the survey questions relates to the legal implications of generative AI in the creative industries. Due to the smaller number of questions compared to the previous subsection, we refrain from further grouping according to the regulatory dimensions derived in section 2.2.3.

**Insight 20:** The overwhelming majority of industry organisations and advocacy groups (89%) see challenges in balancing the protection of creators' rights with the rise of generative AI. The responses highlight a wide range of challenges to the protection of creators' rights. The main issues identified include the volume of AI-generated content, protection against unauthorised use, the use of copyrighted content for AI training, transparency in AI training, and the uncompensated use of works [Figure 30].

**Insight 21:** A large majority of academics and policymakers (83%), as well as industry professionals and businesses (90%), argue that current legislation is not sufficient to address AI. However, there is no consensus on whether a specific law should be created, or existing laws adapted [Figure 11]. This is in line with another survey from the US, UK, Canada, and Australia that showed that 94% of consumers want more regulation and transparency around the use of generative AI.[67]

**Insight 22:** If they are in favour of regulatory action, around half of the academics and policymakers support a comprehensive framework to address liability and intellectual property (40%), clear guidelines for attribution of ownership (53%), and criteria to distinguish AI-assisted from AI-generated work (53%) [Figure 34].

**Insight 23:** Regardless of the stakeholder group, there is no consensus on whether AI-generated content should be protected by copyright. Significant proportions of creators (42%), industry professionals and businesses (36%), industry organisations and advocacy groups (37%), and academics and policymakers (58%) oppose copyright protection [Figure 9].

**Insight 24:** There is a broad consensus among stakeholder groups in the creative industries that the use of AI in content creation should be disclosed, particularly creators (83%), creative intermediaries and distributors (84%), creative industry professionals and businesses (75%), industry organisations and advocacy groups (84%), academics and policymakers (70%), and consumers and end users (75%) [Figure 10].

**Insight 25:** Academics and policymakers are more sceptical than other stakeholders about copyright protection and disclosure of AI-generated content due to concerns about the regulatory feasibility [Figure 9, Figure 10].

**Insight 26:** Creative intermediaries and distributors see several measures to protect copyright interests. For most respondents, transparency (64%), clear ownership attribution (59%), fair compensation models for input and output (58%), and digital rights management (54%) are adequate measures [Figure 25].

**Insight 27:** There is no clear consensus among academics and policymakers as to who should bear legal responsibility in the event of copyright infringement involving AI-generated content. However, 56% of responses suggest that the organisation using the AI should be liable, as they have control and benefit. Only a minority (6%) suggested that the individual or team overseeing the AI-generated content should be responsible, as they have the knowledge and influence over the output of the system [Figure 36].

## 3.4 Key learnings from the survey

The survey results highlight the diverse and evolving perspectives within and between the six stakeholder groups on the impact of generative AI on the creative industries and copyright. There are few topics on which most respondents agree. Creators have mixed feelings - some see generative AI as a tool or inspiration, while others see it as a threat to their creativity and practices. Responses emphasise human input and responsibility within the creative process, and thus the need for transparent disclosure of generative AI use. The emphasis on human input and responsibility within the creative process extends to the broader discourse around the value of art and competition alongside the rise of generative AI. Art has traditionally been valued for its ability to express human emotions, experiences, and perspectives. However, with the rise of generative AI, the boundaries between human and machine-generated art are blurring, along with traditional notions of artistic merit. While some argue that AI-generated art lacks the depth and soulfulness of human-created works, others contend that it represents a new form of artistic expression that is still able to evoke some elements of human artistry.

There is a consensus among different stakeholder groups that generative AI will have a significant impact on the creative industries, bringing opportunities and challenges and shifting business models and market structures. This extends to opportunities and challenges in content creation, distribution, monetisation, education, and skills development. In particular, industry organisations and advocacy groups are more cautious, stressing the importance of protecting the rights and interests of those in the creative sector and clarifying the grey areas. Consumers are the most curious group, interested in the novelty and variety of content generated by generative AI. However, different opinions continue to emerge on attribution, ownership, and rights protection, indicating a need for legal clarity.

Most importantly, the survey shows that current legal and regulatory frameworks are largely seen as inadequate by stakeholders, as they are unable to adequately address the novel challenges posed by generative AI, in particular with respect to ownership and rights protection. Transparency and accountability were also regularly identified as critical to prevent misuse of creative works and generative AI. In summary, the impact of generative AI on the creative industry and society continues to reveal a complex interplay of opportunities and challenges, shaped by different stakeholder perspectives and opinions.

# 4 Analysis of Interviews

## 4.1 Selection and Profile of the Interviewees

In January of 2024, a comprehensive series of interviews were conducted to delve into the multifaceted implications of generative AI within the creative sector. The interviews were planned to encompass a broad spectrum of perspectives, ensuring a rounded understanding of the subject. A total of six interviews were carried out with representatives from the survey stakeholders who play a pivotal role in the creative ecosystem.

Applying purposive sampling, interviewees were drawn from a diverse range of backgrounds and expertise, encompassing representatives from the following stakeholder categories:

| **Interviewees** | **Affiliated stakeholder group** |
|---|---|
| Interviewee 1 | Professor for IP law |
| Interviewee 2 | AI Artist |
| Interviewee 3 | Industry Organisation representing technology companies |
| Interviewee 4 | Industry Organisation representing authors |
| Interviewee 5 | Advocacy Group focussing on the protection of consumers |
| Interviewee 6 | Advocacy Group focussing on democratic rights and principles in the digital sphere |

By applying a thematic analysis, the survey results have shown that generative AI is still rapidly evolving but has the potential to transform the creative sector and society in various ways, both positively and negatively. The interviews conducted with different stakeholders and experts continue to reveal these different perspectives, interests, and concerns regarding the use, impact, and regulation of generative AI for content creation and innovation as showcased by the survey results. Thus, each interviewee brought a unique perspective to the discussion which ensured discussion on various facets of generative AI and its impact on society and the creative sector from different angles.

## 4.2 Results

The analysis of the interviews revealed several themes that resonate with the survey results and highlight the opportunities and challenges of generative AI for the creative sector and society. As with the survey results, we have grouped the findings according to the dimensions identified in section 2.

*Legal implications*

**Call for AI governance:** The interviews highlighted the need for effective AI governance, including transparency about the roles and responsibilities of creators, AI users, and AI creators, to build trust and foster collaboration between stakeholders. Where regulation is necessary or desirable, it must remain adaptable to the rapidly evolving technological landscape. In addition, the current lack of comprehensive stand-alone Swiss AI legislation, compared to the EU AI Act, may pose harmonisation challenges in an area that is not confined to a single territory or location. In addition, sector-specific regulations are essential, especially when AI is used in more sensitive areas such as healthcare. By tailoring regulations to specific sectors, nuanced concerns can be addressed while safeguarding against potential risks associated with the use of AI. However, similar to the survey results, there is no clear consensus on the regulatory approach. Some respondents suggest that existing laws are already somewhat applicable to generative AI, but there are gaps and uncertainties around enforcement. Others argue for new legislation, either horizontal or sector-specific, while others strongly oppose a Swiss version of the EU AI Act or any AI regulation at all. However, there is a consensus that if there is to be a new Swiss AI regulation. Interviewees stress the importance of involving the creative sector in the policy-making process, given their first-hand experience and concerns about AI in their work.

**Transparency and disclosure:** All interviewees expressed concern that generative AI could create risks of manipulation and misinformation, especially if consumers or end-users are unaware of the origin and nature of the content they are exposed to. Therein, a challenge within the Swiss creative

industry is preventing the negative impacts of generative AI on the quality, diversity and integrity of the information and content that is disseminated. Thus, many interview partners, such as a research and advocacy organisations, see the need for transparency and disclosure of the application of generative AI in the creative process and final product to avoid deception and misinformation. For example, generative AI is often used for chatbots, but without explicit disclosure could lead users to believe that a real person is chatting with them.

*Innovation in the Creative Process | Shifts in Business Models for Creative Workers*

**Boost for efficiency and creativity:** There is broad consensus on the potential of generative AI to enhance, augment, or inspire human creativity and enable new forms of expression or experimentation. Many respondents recognised the potential for generative AI to support, augment or inspire the human creative process and enable new forms of creation or exploration. For example, generative AI could be used to generate visuals, music, or scripts. Some interviewees also highlighted the potential for generative AI to optimise certain repetitive tasks, allowing creators to spend more time on more meaningful and creative elements of the process. An interview with an AI artist shows that generative AI can be used as a tool to explore new areas, generate original and diverse content, but also to create bespoke art based on tailored data sets and interests. The artist indicated that he does not rely heavily on prompts, but rather on his own creativity and style.

**Generative AI as a business imperative:** Interviews with organisations and associations in the creative sector show that generative AI is already a reality and a necessity for many companies and industries in Switzerland. It helps to summarise documents, integrate information and search for information. Those who do not use generative AI will have little chance of remaining competitive. The interviewee representing academia, industry organisations and a collective rights management body emphasised that the incentive to use generative AI is based on the efficiency and productivity of creative work.

*Social Inequality in the Art and Labour Market | Global Influence and Local Identity*

**Ethical and social implications:** The ethical and social implications of generative AI, such as discrimination, stereotyping, environmental footprint, working conditions and concentration of power have been a common theme in the stakeholder interviews. The representatives of the industry organisations, advocacy groups, and the creator highlighted the ethical and social implications of generative AI, such as bias, harm and inequality. They recommended that policymakers should take an active and responsible role in the use of generative AI, rather than leaving it to private interests or over-regulating it. However, AI and generative AI do not highlight 'new' issues, but only exacerbate existing ones. Strong measures should also be taken to combat misinformation and prevent discriminatory practices being perpetuated by AI systems, as mentioned already above.

*Incentive Structures and the Value of Traditional Creative Work*

**Value of human creativity:** The value of human creativity and agency in AI-generated works, is a major theme in the interviews. Like the survey, the interviews have shown that the role of human creativity and agency in AI-generated works is still of high value. Some interviewees expressed the view that human input is essential for any creative work, even if it involves generative AI, and that humans should have control over the final product. Others argued that generative AI can be regarded as a co-creator or a collaborator, rather than merely a tool or a threat, but supporting and enhancing human creativity.

*Education and Skill Development*

**Education and awareness:** A recurring theme among interviewees are the need for education and awareness to encourage responsible consumption of AI-generated content. Digital literacy is crucial for protecting consumers and ensuring disclosure. Highlighted by several interviewees, there is a lack of awareness and education among the consumers and end users of the AI-generated content and its sources. Interviewees stress the need for more digital literacy, disclosure, and protection of consumers.

## 4.3 Key Learnings from the Interviews

Collectively, the interviews painted a picture of a creative sector on the verge of significant change driven by generative AI. The insights from these interviews suggest that while generative AI holds great promise for enhancing the creative sector, it also requires a proactive and informed response from policy makers, industry leaders and the creative community at large. The complexity of the issues requires a collective effort and multi-stakeholder engagement to navigate the future of creativity in the age of artificial intelligence.

# 5 Development and Insights into Scenarios

The survey, international and national developments, and the interviews have shown that the implications of different regulatory approaches towards generative AI in the creative industries are still largely speculative and controversially debated. Based on these, to explore these implications, four scenarios were developed that describe possible regulatory developments of the IP system in relation to generative AI and their respective impact. These scenarios are neither predictions nor recommendations, but rather plausible and coherent stories that illustrate the consequences of different assumptions and choices. They help understand and assess the implications of various policy options and to identify the key drivers and uncertainties that shape the future of generative AI and the creative industry.

## 5.1 Scenario Description

The scenarios are based on the "regulatory dimensions" developed in Chapter 2, namely:

- Dimension 1: Level of human involvement required,
- Dimension 2: Comprehensiveness and specificity of the regulatory framework,
- Dimension 3: Use and compensation of training data protected by copyrights.

Each scenario is characterised by a specific combination of parameters within the two dimensions. In order to simplify the scenario discussion, the regulatory dimension "use and compensation of training data protected by copyrights" was only applied to Scenario 2, forming two sub-scenarios. The impact of this dimension is considered to be similar in the following Scenarios 3 and 4, whereas it is irrelevant for Scenario 1. The scenarios are briefly presented below.

**Scenario 1: Status Quo**

| | | |
|---|---|---|
| Dimension 1 | **Parameter 1:** Human involvement is necessary. | The current Swiss Copyright and Intellectual Property Rights framework **remains unchanged**. Legal uncertainties and disputes arise due to **unclear rights and responsibilities** concerning generative AI, its inputs, and its outputs. It is likely that Courts will have a strong influence on how these issues are addressed. AI-generated content with human involvement can, in certain instances, be copyrighted, while fully AI-generated content without human involvement cannot. |
| | **Parameter 2:** AI agents cannot be copyright owners. | |
| Dimension 2 | **Parameter 3:** The legal definition of a "work" and IP law are not comprehensively nor clearly defined with generative AI in consideration. | |

**Scenario 2a: Adaptation of Existing Laws (training data compensated)**

| | | |
|---|---|---|
| Dimension 1 | **Parameter 1:**<br>Human involvement is necessary. | Copyright and IPR frameworks **are modified** to clearly outline the rights and responsibilities associated with generative AI, its inputs, and its outputs, also considering the extent of human involvement, and the use and the compensation of copyrighted training data. AI-generated content with human involvement can still be copyrighted, while **fully AI-generated content** without human involvement **remains unprotected**.<br><br>Technology companies **must compensate creators** if their work is used for educational purposes. |
| Dimension 1 | **Parameter 2:**<br>AI agents cannot be copyright owners. | |
| Dimension 2 | **Parameter 3:**<br>The legal framework is comprehensively and clearly defined. | |
| Dimension 3 | **Parameter 4:**<br>Training data protected by copyrights must be licensed and paid for. | |

**Scenario 2b: Adaptation of Existing Laws (training data not compensated)**

| | | |
|---|---|---|
| Dimension 1 | **Parameter 1:**<br>Human involvement is necessary. | Copyright and IPR frameworks **are modified** to clearly outline the rights and responsibilities associated with generative AI, its inputs, and its outputs, also considering the extent of human involvement, and the use and the compensation of training data protected by copyrights. AI-generated content with human involvement can still be copyrighted, while **fully AI-generated content** without human involvement **remains unprotected**.<br><br>Technology companies **do not need to compensate creators** if their work is used for educational purposes. |
| Dimension 1 | **Parameter 2:**<br>AI agents cannot be copyright owners. | |
| Dimension 2 | **Parameter 3:**<br>The legal framework is comprehensively and clearly defined. | |
| Dimension 3 | **Parameter 4:**<br>Training data protected by copyrights must be licensed and paid for. | |

**Scenario 3: New Legal Regime (Human as Copyright Owner)**

| | | |
|---|---|---|
| Dimension 1 | **Parameter 1:**<br>Human involvement is not necessary. AI can also create content independently. | A new **dedicated legal framework** is established, treating generative AI as an autonomous entity capable of intellectual creativity. This regime allows for the possibility that **fully AI-generated output without human involvement** can be **copyrighted**, marking a significant shift from traditional copyright laws. However, only humans can be the copyright owners. In this scenario, the users of the AI systems are assigned ownership of the work it produces. This change reflects a new perspective on the nature of creativity and intellectual property in the digital age. |
| | **Parameter 2:**<br>AI agents cannot be copyright owners. | |
| Dimension 2 | **Parameter 3:**<br>The legal framework is comprehensively and clearly defined. | |

**Scenario 4: New Legal Regime (AI Agent as Copyright Owner)**

| | | |
|---|---|---|
| Dimension 1 | **Parameter 1:**<br>Human involvement is not necessary. AI can also create content independently. | In this scenario, **AI agents**, to be understood as self-directed software AI system that independently performs tasks to achieve specific goals, can **generate and claim original works without any human involvement or input**. They can be **assigned copyrights** and thus become copyright owners. This would mean that both AI agents and humans could be copyright owners. |
| | **Parameter 2:**<br>AI agents can be copyright owners. | |
| Dimension 2 | **Parameter 3:**<br>The legal framework is comprehensively and clearly defined. | |

## 5.2 Scenario Analysis

The discussion of implications of each scenario is based on the "change dimensions" developed in section 2. They are as follows:

1. **Incentive Structures and the Value of Traditional Creative Work:** This dimension analyses how the advent of generative AI influences the perceived and actual value of human-created art and content. It considers potential shifts in audience appreciation and the financial valuation of human-made works versus AI-generated content as well as the incentives for tool developers.
2. **Market Dynamics and Power:** This dimension assesses the impact of generative AI on the competitive dynamics of the creative industry. It explores how generative AI might favour certain business models or types of companies, and its effects on smaller and traditional creators.
3. **Shifts in Business Models for Creative Workers:** This aspect examines the impact of generative AI on the livelihoods and business practices of artists, designers, writers, and other creative professionals. It includes shifts in how creative services are offered, marketed, and sold, and the emergence of new roles and skills in the industry.
4. **Democratization of Content Creation:** This dimension evaluates how generative AI affects the ease and accessibility of content creation for a broad spectrum of individuals, including those without creative skills and education. It looks at whether generative AI facilitates a more diverse range of voices and perspectives in the creative landscape.
5. **Innovation in the Creative Process:** This aspect looks at how various legal frameworks can stimulate or inhibit innovative output.
6. **Technological Advancement:** This may involve the development of new creative tools, platforms, and methods for content creation and distribution.
7. **Education and Skill Development:** This aspect evaluates the implications of generative AI for educational and training requirements in the creative fields. It encompasses the need for new skills related to AI and technology, alongside a renewed focus on uniquely human creative abilities.
8. **Consumer Behaviour and Engagement:** This dimension analyses shifts in how consumers interact with creative content in the era of generative AI. It includes changes in consumer preferences, engagement patterns, and the ways audiences consume and interact with AI-generated content.
9. **Social Inequality in the Art and Labour Market:** This dimension focuses on the potential effects of generative AI and various legal frameworks on social inequality within the art and labour market. It looks at disparities in access, opportunities, and outcomes among different groups in the creative sector.
10. **Global Influence and Local Identity:** This aspect considers the impact of global generative AI trends on the local Swiss creative landscape, particularly in terms of preserving local cultural identities and practices amid globally influenced, AI-driven content.

The analyses have the underlying assumption that there is continued technological progress, especially regarding the capability and autonomy of AI systems.

In the following the scenarios' impact on each change dimension is briefly described. The descriptions were elaborated by synthesising the current discussions (see section 2), the survey results (see section 3) and the interview results (see section 4). As the realm of AI evolves fast and its implications are complex, the implications summarized in the table below must be considered assumptions and hypotheses. Other interpretations are possible.

| Dimension | **Scenario 1**<br>***Status Quo*** | **Scenario 2**<br>***Adaptation of Existing Laws*** | **Scenario 3**<br>***New Legal Regime (AI Agent cannot be Copyright Owners)*** | **Scenario 4**<br>***New Legal Regime (AI Agent can be Copyright Owners)*** |
|---|---|---|---|---|
| Incentive Structures and the Value of Traditional Work | The value of human-created content remains high, given the legal uncertainties around AI-generated content's copyrightability. The need for human involvement in AI-generated content to be copyrightable preserves an incentive for traditional creative work, emphasizing the unique value of human creativity. This status quo might also incentivize tool developers to focus on collaborative tools that require human input, maintaining the relevance of traditional creative skills. However, legal uncertainties may deter creators from fully embracing generative AI and AI-tool developer shy away from investments, especially due to the remaining ambiguity of training data protected by copyrights. | The clarification of laws could reinforce the value of human creativity by explicitly recognizing the role of human involvement in copyrightable AI-generated content. This might encourage artists to continue developing their unique styles and contributions, knowing their rights are protected, while incentivizing them to explore generative AI.<br><br>*Comparison of sub-scenarios:* In Scenario 2a, creators are incentivised to share their work, whereas in Scenario 2b they may be reluctant to publish and share their work online to avoid uncompensated use as training data. In scenario 2a, AI tool developers will need to adapt their business models, especially as the legal regime refines current exceptions and limitations of training data protected by copyrights, requiring licensing of training data and adjusting price models. | This scenario could slightly shift incentives towards leveraging AI more freely in creative processes. It might encourage a broader exploration of AI's capabilities, potentially impacting the perceived value of purely human-made works by placing emphasis on innovation and output over the method of creation. Technology companies have the incentive to invest in AI-tool development. | This radical shift could significantly alter the incentive structure within the creative industry. Knowing that AI agents can be assigned and own copyrights may diminish the relative value of human-created work, as the market could become flooded with AI-generated content. This may lead to decreased incentives for human creators, pushing them into market niches where exclusively human generated output is valued. It may also challenge traditional notions of creativity and ownership, potentially devaluing human creativity in favour of efficiency and novelty produced by AI. Technology companies have the incentive to invest in AI-tool development. |
| Market Dynamics and Power | The current legal uncertainties may favour larger entities with the resources to navigate or influence the legal landscape. This could disadvantage smaller creators and independent artists who may struggle | Clear legal frameworks could level the playing field by providing all creators, regardless of size, with a solid understanding of their rights and responsibilities. This might reduce the dominance of large entities that | By allowing humans to own copyrights of AI-generated works without direct involvement, smaller creators and independent artists may gain a stronger foothold in the market. This could democratize content production by enabling individuals | Allowing AI agents to hold copyrights could lead to a market dominated by entities that control the most advanced AI technologies. This scenario could significantly advantage technology companies and those with the capital to invest in AI, |

| Dimension | **Scenario 1**<br>***Status Quo*** | **Scenario 2**<br>***Adaptation of Existing Laws*** | **Scenario 3**<br>***New Legal Regime (AI Agent cannot be Copyright Owners)*** | **Scenario 4**<br>***New Legal Regime (AI Agent can be Copyright Owners)*** |
|---|---|---|---|---|
| | with legal complexities and the costs of litigation or copyright disputes. | previously might have leveraged legal ambiguities to their advantage.<br><br>*Comparison of sub-scenarios:* In Scenario 2a, creators are in a stronger position as technology companies are obliged to pay for the use of training data protected by copyrights. Smaller technology companies are likely to be disadvantaged due to the higher cost of training data. | to compete more effectively against larger corporations with more resources. However, inequality in the access to technology and the necessary resources to use them might concentrate power with few larger corporations. Technology companies and distributors may crowd out traditional creators by producing AI-generated content without human involvement. | potentially marginalizing traditional creators, and smaller entities unable to compete with AI's productivity. |
| Shifts in Business Models for Creative Workers | Creators may resist adopting generative AI due to the unclear legal protection, thus hindering innovation. Regardless, creative workers may adapt by highlighting the human elements of their work to differentiate from fully AI-generated content. This scenario could also lead to a reliance on platforms and tools that facilitate human-AI collaboration, potentially altering how creative services are marketed and sold. | Creative professionals may increasingly incorporate AI into their processes, leveraging clear legal standards to innovate and expand their offerings. This could lead to the emergence of new business models that capitalize on the synergies between human creativity and AI efficiency.<br><br>*Comparison of sub-scenarios:* In Scenario 2a, certain creators may include the provision of high-quality training data for AI models in their business models or even focus solely on this. | Content producers can generate the final product at lower costs, less likely to need as many traditional creators. There is a big reliance on AI systems to always be available and creative. Creative professionals might explore new business models that fully leverage AI's capabilities to produce content at scale, reducing time and costs. This could lead to a diversification of creative outputs and services, as well as new forms of content that were not feasible before due to human resource constraints. New services around creating transparency, such as in curation and labelling, evolve. | Human creators face increased competition from AI agents and non-creatives, requiring adaptation in efficiency and speed to remain competitive. Alternatively, they might need to find new niches or methods of incorporating AI outputs into their work to remain relevant. Business models could shift towards curating, editing, or integrating AI-generated content, rather than creating original content from scratch. |
| Democratization of Content Creation | The unclear legal framework might deter some from using generative AI, slightly hindering the | With legal protections clarified, more individuals might feel empowered to use AI in their creative | This legal regime could significantly democratize content creation by making it easier for people without | This legal regime could significantly democratize content creation by making it easier for people without |

| Dimension | **Scenario 1**<br>***Status Quo*** | **Scenario 2**<br>***Adaptation of Existing Laws*** | **Scenario 3**<br>***New Legal Regime (AI Agent cannot be Copyright Owners)*** | **Scenario 4**<br>***New Legal Regime (AI Agent can be Copyright Owners)*** |
|---|---|---|---|---|
| | democratization of content creation. However, tools that clearly require human input could become more popular, maintaining accessibility for a broad user base without extensive creative skills. | endeavours. This could significantly democratize content creation, making it accessible to those without traditional creative skills but with ideas they wish to realize through AI.<br><br>*Comparison of sub-scenarios:* In Scenario 2a, the price of AI tools may increase, making them less accessible for a broad audience. | traditional creative skills to produce and copyright original works. The barrier to entry for creating copyrighted content could lower, leading to a more inclusive and varied creative landscape. | traditional creative skills to produce original works. Technology companies have a strong incentive to distribute tools since copyrights may lay with their AI agents. As a result, creators have less incentives to use AI than in scenario 3. |
| Innovation in the Creative Process | Legal uncertainties could stifle innovation, as creators and developers may be cautious about pushing the boundaries with AI for fear of legal repercussions. This environment may lead to a more cautious approach to innovation within the existing creative process. | The adaptation of laws could stimulate innovation by providing a safe legal framework for experimenting with AI in creative processes. Knowing the extent of human involvement required for copyright could encourage more daring and novel uses of AI. The extent of innovation is dependent on the limiting nature of the new established legal framework. There is a risk of implementing a wrong or inflexible regulation.<br><br>*Comparison of sub-scenarios:* In Scenario 2a, the creative process most probably will benefit because creators are incentivised to make their work available as training data. | The ability to copyright AI-generated works without human involvement could lead to unprecedented levels of innovation, as creators experiment with AI's full potential without legal constraints. This could foster a new era of creative experimentation and output. However, overreliance on AI-generated input with no to small human contribution might lead to a homogenization of output, especially if there is only a small variety in available tools. | The legal recognition of AI as copyright owners could drive significant innovation in AI development, pushing forward the capabilities of creative AI technologies. However, this might come at the cost of variety and human creativity, as the focus shifts towards advancing AI rather than human skill and expression. |
| Technological Advancement | The development of new tools and methods may be slower due to the legal uncertainties which may hinder investments in AI. The focus will | This scenario might spur technological advancement by creating a demand for AI tools that are designed to work seamlessly with human | This scenario may accelerate technological advancement in AI and creative tools, as there's a clear incentive to develop AI systems | This scenario would likely accelerate technological advancement in AI, as there would be substantial economic incentives to develop AI agents |

| Dimension | **Scenario 1**<br>***Status Quo*** | **Scenario 2**<br>***Adaptation of Existing Laws*** | **Scenario 3**<br>***New Legal Regime (AI Agent cannot be Copyright Owners)*** | **Scenario 4**<br>***New Legal Regime (AI Agent can be Copyright Owners)*** |
|---|---|---|---|---|
| | be on tools that complement human creativity rather than replace it, due to the emphasis on human involvement for copyright protection. | creators, respecting the legal requirements for copyrightability. Tools that facilitate collaboration between AI and humans could see significant development.<br><br>*Comparison of sub-scenarios:* In Scenario 2a, technological progress may be hampered by the cost of high-quality training data. | capable of producing copyrightable works autonomously. This could push the boundaries of what AI can achieve in creative domains. | capable of creating copyrightable works independently. This could lead to rapid developments in AI creativity and autonomy. |
| Education and Skill Development | There will be an increased emphasis on hybrid skills that blend creativity with AI proficiency, as professionals navigate the integration of AI into their workflows while ensuring their work remains copyrightable. | The need for skills that bridge creativity with technological proficiency could become even more pronounced, as the use of AI is encouraged. Educational programmes might focus on teaching artists how to effectively integrate AI into their work while maintaining the human element necessary for copyright protection. The creative industry and policy makers need to invest in changed educational requirements.<br><br>*Comparison of sub-scenarios:* There is no major difference. | The focus of education and skill development might shift towards understanding and directing AI creativity, managing AI systems, and integrating their outputs into human-centric creative processes. Skills in AI management and creative direction could become more valuable. | The education focus might shift towards understanding AI technology, ethics, and the management of AI creations, with less emphasis on developing human creative skills. Training on how to collaborate with, augment, or curate AI-generated content might become critical. |
| Consumer Behaviour and Engagement | Consumers might become more discerning, seeking out works that have clear human involvement or provenance, given the legal ambiguities around fully AI-generated content. This could affect engagement patterns, with a possible preference for | Consumers might become more accepting of AI-generated content, knowing there is a clear legal distinction that protects human-involved creation. This could lead to a broader engagement with both human-made and AI-assisted content, | Consumers might become more open to AI-generated content, knowing it can be copyrighted and owned by humans. This is especially the case if the quality of AI-generated output is difficult to differentiate from output with human | Consumer engagement could shift significantly, with audiences potentially becoming more accepting of or indifferent to the distinction between human and AI creators. This might lead to new forms of engagement based on the novelty, |

| Dimension | **Scenario 1**<br>***Status Quo*** | **Scenario 2**<br>***Adaptation of Existing Laws*** | **Scenario 3**<br>***New Legal Regime (AI Agent cannot be Copyright Owners)*** | **Scenario 4**<br>***New Legal Regime (AI Agent can be Copyright Owners)*** |
|---|---|---|---|---|
| | content that maintains a human touch. | appreciating each for its unique contributions. Consumers will consume what they like most.<br><br>*Comparison of sub-scenarios:* There is no major difference. | involvement. This could lead to changes in how content is valued and engaged with, possibly blurring the lines between human-made and AI-generated works in the eyes of the consumer. In contrast, there may be a strong call for transparency and labelling AI-generated works (like transparency requirements when being confronted with AI chatbots as suggested in the EU AI Act). A niche group of particularly affluent people may place a premium on creative content created by human beings. | efficiency, or personalization of AI-generated content rather than its human artistic merit. |
| Social Inequality in the Art and Labour Market | The status quo may exacerbate social inequalities, as those with less access to legal resources or AI technology could find it harder to protect their rights and compete. The unclear legal environment could disproportionately impact independent and emerging artists. | While fostering AI application the divide between these people not having and those having the resources and skills to exploit AI's potential in the creative process and will grow.<br><br>*Comparison of sub-scenarios:* In Scenario 2a, there may be a greater risk of inequality between creators who have the means to negotiate licensing agreements with technology companies and creators who do not (similar effects as for musicians on streaming platforms). | While this scenario could democratize content creation, it might also lead to new forms of inequality, particularly in terms of access to advanced AI tools and the knowledge required to use them effectively. Those with early access or better resources to leverage AI might gain a significant advantage. A gap will appear between "commodity" works and high-end creative endeavours. As such, many commodity works will be de-valued due to fast AI-supported creation resulting in loosing income for creators. | This scenario could exacerbate social inequalities, privileging those with access to cutting-edge AI technologies and the financial means to exploit them. It could lead to a creative landscape where economic and technological barriers determine who can produce and profit from creative work, rather than talent or skill. The degree of inequality may depend on the availability and popularity of open-source models for AI agents. |

| Dimension | **Scenario 1**<br>***Status Quo*** | **Scenario 2**<br>***Adaptation of Existing Laws*** | **Scenario 3**<br>***New Legal Regime (AI Agent cannot be Copyright Owners)*** | **Scenario 4**<br>***New Legal Regime (AI Agent can be Copyright Owners)*** |
|---|---|---|---|---|
| | | | Due to scarcity of solely human-created content, only wealthy consumers will be able to afford it. | |
| Global Influence and Local Identity | The Swiss and other local creative landscapes may maintain their distinct local identity more robustly under the current framework, as creators emphasize human-centric works to navigate copyright uncertainties. However, especially smaller, local creators may struggle to compete with global actors due to the legal uncertainties. | The explicit legal framework might encourage local creators to use AI for creative processes, blending them with local cultural elements, thereby bringing in unique local elements to the global market of AI-assisted or AI-generated content.<br><br>*Comparison of sub-scenarios:* There are likely to be several effects. On the one hand, in Scenario 2a, local creators are incentivised to make their content available as training data, resulting in the representation of local identities in AI models. On the other hand, technology companies may focus only on large customer groups and avoid the cost of training data for smaller local creators. | AI systems that transparently integrate a degree of "Localness" into the development of their output could facilitate the dissemination of content that takes into account unique local identity. However, there's also a risk that the ease of generating content through AI could dilute local cultural identities and threaten the diversity of the creative landscape if not managed carefully. | The potential for AI agents to dominate the creative landscape could challenge the preservation of local cultural identities, as the efficiency and novelty of AI-generated content might overshadow region-specific human creative expressions. However, there could be efforts to program AI with sensitivities to local cultures and languages, attempting to maintain cultural diversity in the digital age. |

In examining the four scenarios, it is clear that the trajectory of the creative industries will be significantly influenced by the legal environment in which they operate. Each scenario has unique implications not only for creators, but also for intermediaries, consumers, technology companies and society.

Scenario 1, while maintaining stability in the short term, preserves the value of traditional work. It also continues to require human involvement, not only in the creation of work but also in the ownership of copyright. However, the legal uncertainties may hinder innovation and efficiency and discourage creators from using generative AI. As unclear cases need to be resolved through legal practice, larger actors are likely to gain an advantage over individuals and small organisations. For example, while large creators such as the New York Times have the financial means to sue OpenAI, smaller companies will not have the same opportunities.

Scenario 2, where an adaptation of existing laws is envisaged, provides clarity and legal protection, incentivising creators to embrace generative AI while levelling the playing field for all participants. This scenario encourages inclusion and innovation.

Alternatively, Scenario 3, which offers a new legal regime, ensures that human creators retain control and ownership of the work, but does not require human intervention in the creation of the work. The legal clarity in this scenario may encourage more collaboration between humans and generative AI, allowing for the creation of new types of work and thus promoting unique interactions with the digital. However, this scenario will disrupt the creative industries and shift market power away from traditional content creators, with serious economic, legal, and ethical implications.

Finally, Scenario 4 introduces an extreme shift in our understanding of copyright and the use of generative AI. It allows generative AI to become dominant in the market, potentially marginalising human creators and shifting incentives away from traditional creative work, thereby also undermining local identity and traditional knowledge. While generative AI and technological innovation may accelerate rapidly under this scenario, there are serious concerns about social inequality and the devaluation of human creativity.

As generative AI continues to develop and permeate various facets of the creative industries, there is an urgent need to address these copyright concerns and establish clear guidelines to protect the rights of both creators and consumers.

# 6 Conclusion

The intersection of IP law and generative AI has become an important area of discussion globally and in Switzerland, with several key challenges drawn from recent research, regulatory discussions, and the survey results. Overall, the study shows that despite the great potential, there is no consensus yet on the regulatory direction and potential impact on the creative industries, either among the stakeholder groups surveyed and interviewed in Switzerland or in international academia, policy, and legal practice. Many questions remain unanswered, such as follows. At what point is a work no longer part of a person's creative intellectual process, at what point does it lose the inherent human qualities that society has enjoyed until now? Who or what gets copyright protection, if at all? Perhaps this could lead to a new public domain model for all AI-created works that cross the threshold of autonomy. [68]

While the stakeholder groups may share certain opinions about generative AI, differences within these groups highlight the ongoing discussions and differing perspectives within the industry. Whether it be a painter, photographer, advocacy groups, AI developers, or consumers, navigating these differences requires open dialogue and collaboration to address these diverse perspectives.

## 6.1 Areas of Focus

To answer these questions, policymakers, technology companies and the creative industries must continue to foster dialogue and ensure that all voices and perspectives are heard. While these groups may share certain views on generative AI, the differences between and within these groups highlight the ongoing discussions and differing perspectives of the industry. This study provides the framework for such a dialogue by proposing the following areas of focus for future discussions on IP law and generative AI in Switzerland. These areas encompass legal, ethical, and practical concerns and ambiguities that intersect with the rapidly evolving landscape of generative AI and its implications for the creative industries and society. They require careful consideration.

**Lack of Clear and Uniform Understanding**

One of the primary challenges surrounding generative AI is the lack of a clear understanding, both from a legal definition perspective and a practical application of generative AI. From a legal standpoint, the definition of AI-generated content and its implications under copyright law remain ambiguous. Questions arise regarding how AI should be trained, particularly concerning the use and compensation of copyrighted material in training datasets. Furthermore, there remains unclarity on the extent to which generative AI can be used for a work to still be classified as a “work” and thus copyright protected. This ambiguity poses challenges not only for creators, but also for AI developers and users of AI, hence, highlighting the need for clarity and guidance in legal frameworks.

**Need for Transparency and Accountability**

Transparency is crucial, especially for consumers who engage with a wide array of content and works daily, as it fosters trust and allows for informed decision-making but importantly ensures accountability in the use of generative AI tools and creative works. A main priority of the EU AI Act is transparency and requires AI tools such as a chatbot to be identified as an AI tool. This could set a precedent for similar transparency measures in creative works to empower consumers and maintain ethical standards.

**Fear of Mass Production**

With the speed at which generative AI can create content, there is a growing concern about the homogenisation of creative content. The ability of generative AI to produce vast quantities of content quickly raises questions about originality, diversity, and uniqueness of creative content. Not only does this fear challenge the traditional notions of creativity, authenticity, and individual expression, it runs the risk of losing traditional creative knowledge and cultural identity.

**Risk of Widening the Digital Gap**

Generative AI presents both opportunities and challenges. On the one hand, the survey results suggest that generative AI has the potential to democratize access to the creative industry, enhance efficiency, and introduce new forms of art. By automating certain aspects of the creative process and providing new tools for content creation, generative AI can lower barriers to entry for aspiring creators and empower individuals from diverse backgrounds to participate in the creative sector, both commercially and in terms of private leisure. However, despite these potential benefits, there is a concern that

generative AI may exacerbate existing inequalities and widen the digital gap. As AI technologies become more readily available, disparities in access to education, the technology and other resources may become more pronounced, further marginalising underserved communities and intensify social inequalities. Without appropriate discussions and measures, this digital gap could continue to grow, leaving certain actors at a disadvantage in the AI-driven creative sector. To mitigate such risks, for example, the Canadian government recently announced a Sectoral Workforce Solutions Program, which will provide new skills training for workers in potentially disrupted sectors and communities, such as the creative industries.[69]

**Mitigating the gap between commodity and high-end creative endeavours**
As generative AI becomes increasingly prevalent, policymakers must address the gap between "commodity" creative work and high-end creative endeavours. Commodity work (e.g., simple layout task) most probably will be massively de-valued by AI-generated work impacting both specialised companies and individual artists relying also on income generated by such works.

**Ensuring Competitiveness and Innovation**
Switzerland, known for its excellence in innovation (both in research and the creative industry), faces the imperative to maintain its competitiveness in the rapidly evolving landscape of AI-driven creativity.[70] This entails fostering an environment conducive to innovation while safeguarding the rights and interests of creators and AI developers. IP considerations play a crucial role in this process, as they balance incentives, rights, and responsibilities within the creative sector.

**Incorporating the IP Perspective into AI Regulation**
The integration of IP perspectives into AI regulation is crucial yet often overlooked. Current discussions surrounding AI regulation, such as the EU AI Act, often neglect the nuanced considerations of IP rights and responsibilities. It is imperative to bridge this gap by incorporating IP perspectives and into regulatory frameworks and fostering the discourse surrounding IP and AI. The result would allow for a sector that promotes innovation, protects creators' rights and ensures accountability in AI development and use. While such regulation should focus on output, it too must appropriately consider the input into the creative process (i.e., training data).

## 6.2 Limitations

This study has several strengths and limitations that should be considered when interpreting its findings and implications. One of the strengths of the study is that it covers a diverse range of stakeholders and experts from different backgrounds and sectors, which allows for a comprehensive and nuanced understanding of the use and impact of generative AI in the creative sector. It combines quantitative and qualitative methods, such as the survey and interviews, to capture the general trends and the participants' specific insights. However, the study also faces four limitations. First, the study relies on self-reported data, which may be subject to biases, inaccuracies, or misunderstandings, especially regarding the use of generative AI and its legal and ethical implications. Second, the number of respondents in some stakeholder categories, such as industry organisations and advocacy groups, is low which may limit the representativeness and diversity of the perspectives. Third, due to the lack of comprehensive and detailed information on the composition of the overall population of creators (e.g. proportion of authors, designers, musicians) and the many overlapping responses from participants (i.e. many respondents select more than one occupation), the study cannot state with certainty that the proportions of respondents from this stakeholder category reflect the actual distribution within the creative industries. Finally, the sampling method relied primarily on voluntary participation through industry associations and social media, which may introduce a self-selection bias. This means that those who chose to participate may have had stronger opinions or more interest in generative AI, potentially skewing the results.

# 7 Appendices

## 7.1 Appendix 1: Categories of Stakeholders

| **Category** | **Types** |
|---|---|
| Creators | These are persons who produce original or innovative content, products, services, or experiences that have artistic, cultural, or entertainment value. Examples include authors, painters, sculptors, photographers, singers, musicians, songwriters, editors, web designers, graphic designers, architects, etc. |
| Creative Intermediaries and Distributors | These are agents, organizations, or platforms that facilitate the production, dissemination, exchange, or consumption of creative goods and services, such as artworks, cultural products, media content, or design solutions. Examples include museums, auction houses or publishers. |
| Creative Industry Professionals and Businesses | Individuals or organizations that work in or provide services to the creative industries. Examples include design agencies, consultants, law firms, etc. |
| Industry Organisations and Advocacy Groups | Among their goals is to represent the interests of artists and creatives, by providing them for example with advocacy, information, education, training, networking, promotion, recognition, or support services. They may also engage in policymaking, research, lobbying, standard-setting, accreditation, certification, or regulation activities. Examples include various associations or federations. |
| Academics and Policymakers | This includes organisations and individuals in the academic area and policy makers, for example universities or regulatory authorities. |
| Consumers and End Users | This includes organisations and individuals that are actually consuming various forms of art, for examples buyers of paintings, music listeners, art viewers, etc. |

## 7.2 Appendix 2: Comparative Overview

The following sections provide a more detailed analysis of the differences and similarities between stakeholder groups for each question shared by more than one stakeholder group.

**Question: Do you think AI-generated content should be copyright protected?**

A significant number of respondents, including creators, industry professionals, advocacy groups and academic experts, expressed concern or uncertainty about copyright protection for AI-generated content. However, there is a notable segment of respondents who oppose copyright protection for AI-generated content, as shown in [Figure 9].

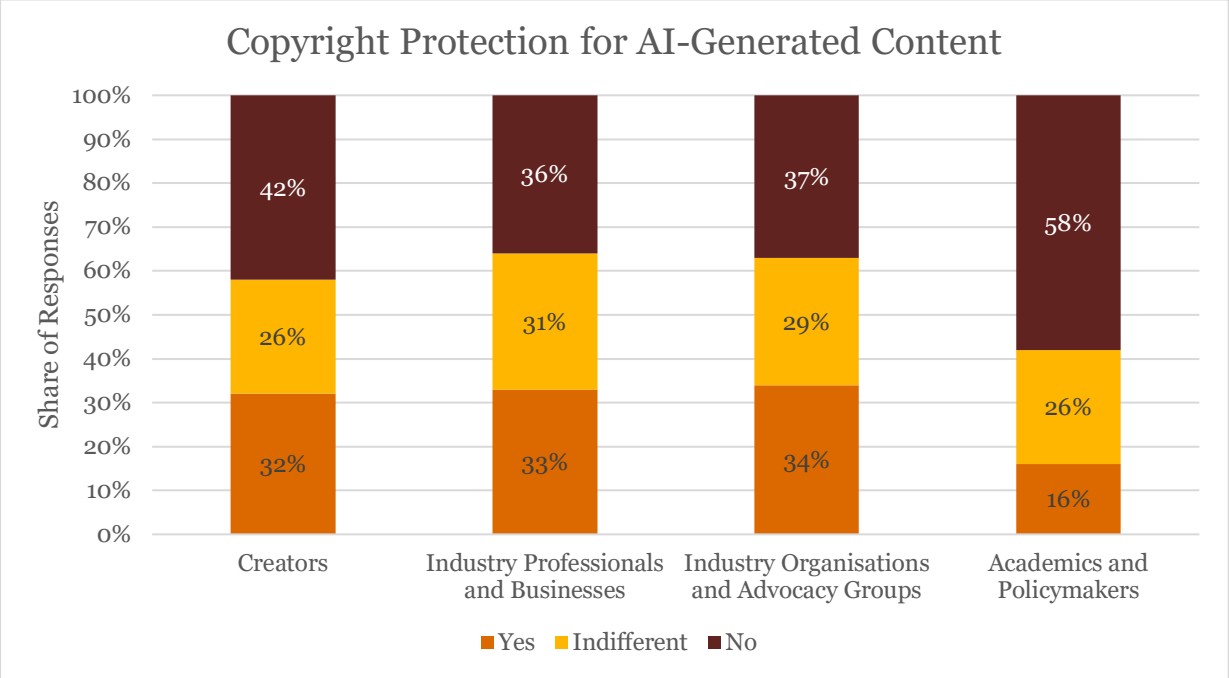


*Figure 9: Should AI-Generated Content be Copyright Protected [Questions B.6 (185 Respondents), D.6 (49 Respondents), E.4 (38 Respondents), F.4 (19 Respondents)]*

**Creators:** When asked whether AI-generated content should be protected by copyright, around 42% of creators said they did not think it should be. Their responses emphasised that AI is not a person and that "AI is rarely used in isolation, but rather as a tool in a creative process. The simple act of making a request and then choosing from several results is also part of the creative process. The content is still edited manually". Some respondents argued that AI-generated work lacks originality and creativity because it is based on data and the work of other human creators. Consequently, they argued that AI-generated content should not be protected or should respect the copyright of the sources.

Conversely, a significant proportion of respondents, 32%, believe that AI-generated content should be protected by copyright as it may still contain a human creative element. This could be in the form of selection, curation or editing of the AI-generated output. They argue that this deserves protection. However, respondents noted that this would depend on the specifics of each case, whether the content is entirely created by generative AI or whether it is only used as a technical tool.

**Industry Professionals and Businesses:** There is no clear consensus among industry professionals as to whether AI-generated content should be protected by copyright. Similar to creators, those in favour of copyright protection argue that AI-generated content should be given the same legal recognition and protection as human-generated work, and that it is a form of creative work and intellectual effort that deserves legal protection. Furthermore, generative AI is used as a tool and works in a similar way to traditional art, with one respondent explaining that "when a human painter creates a picture, he is inspired by images he has seen in his life (both consciously and unconsciously)". Respondents here strongly felt that completely unprotected content was unacceptable.

Conversely, opponents of copyright protection for AI-generated content raise fundamental questions about the nature of creativity and originality in the context of AI-generated works. They argue that generative AI lacks the inherent creativity and subjective intent embodied in humans, and that therefore AI-generated content cannot be protected by copyright. A key concern raised by opponents revolves around the ambiguity surrounding copyright infringement stemming from the data used to train algorithms. They emphasise the urgent need for clarification regarding compensation and the place of AI-generated content within copyright law. Consequently, they question the rationale for extending copyright protection to AI-generated works that do not originate directly from the human mind.

**Industry Organisations and Advocacy Groups:** Similar to creators and industry professionals and companies, around a third of respondents (34%) argued that AI-generated content should be protected. Some of these respondents also stressed the need for a clear framework, a level playing field and a fair balance between the rights of original creators and users of generative AI. Some also stated that the very nature of copyright reinforces the notion that there should ultimately be someone responsible and liable for the results that generative AI produces.

**Academics and Policymakers:** To the extent that generative AI creates a work, 58% of respondents do not believe that AI-generated content should be protected by copyright. This contrasts with the views of other stakeholder groups, where a larger proportion support copyright protection. The main arguments highlighted in the responses against protection are that generative AI is not a human author, that it only uses existing works as input and does not need incentives to create. If it were protected by copyright, it would give too much power to a few, namely the developers and owners of the systems. Only when substantial human modifications are made to AI-generated content by humans should it be eligible for protection.

**Question: Should creators disclose whether their content was generated using AI?**

All stakeholder categories were asked this question, and there is a strong consensus in favour of creators disclosing whether their content is generated using AI. Indifference to disclosure is relatively low, indicating that most respondents have a clear position on the issue.

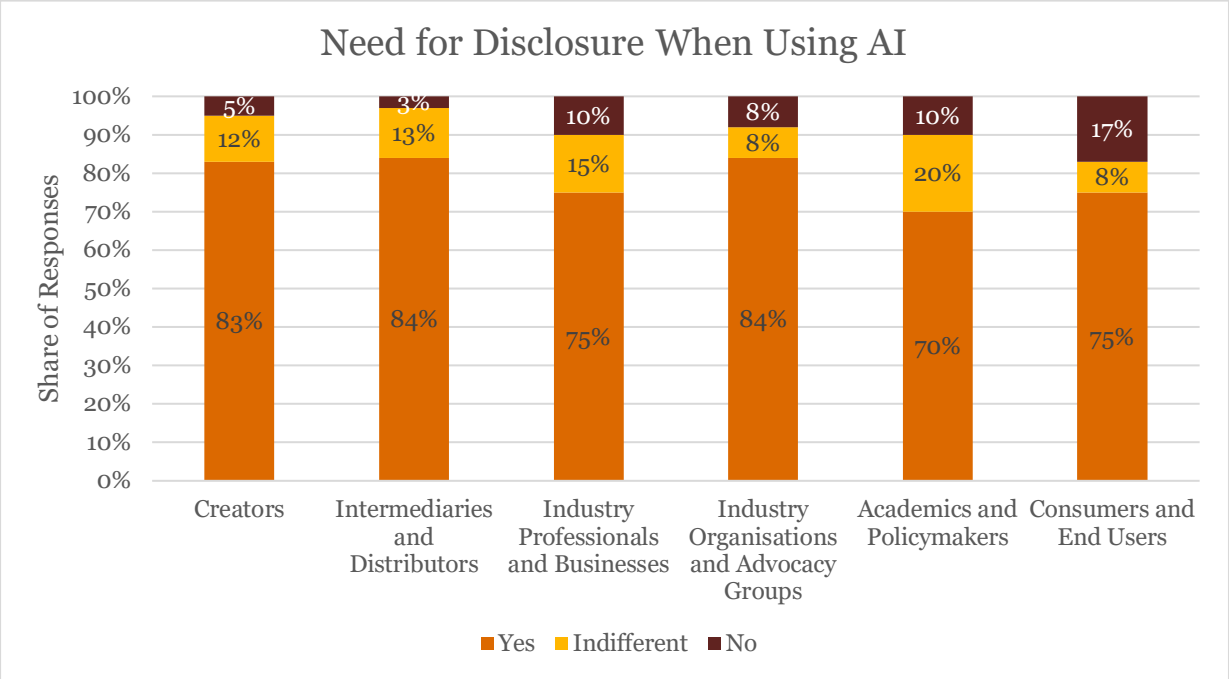


*Figure 10: Disclosure of Content Created Using AI [Questions B.7 (187 Respondents), C.5 (83 Respondents), D.7 (49 Respondents), E.5 (38 Respondents), F.5 (20 Respondents), G.6 (24 Respondents)]*

**Creators:** A minority, 5% of respondents, oppose mandatory disclosure, arguing that generative AI is just a tool like any other and that artists should not have to account for their creative process or

techniques. In the same way that artists do not disclose whether they used a coloured pencil or acrylic paint, it may not be necessary to disclose the generative AI tools used. However, some tools may be more obvious to the naked eye. Some respondents also suggest that in some cases disclosure is not relevant or feasible, for example when generative AI is used for minor enhancements or corrections.

**Creative Intermediaries and Distributors:** There is overwhelming support for disclosure, suggesting that stakeholders across the creative industries value transparency around the use of AI in content creation. This transparency is essential to maintaining trust between creators and their audiences, as it allows consumers to make informed choices about the content they engage with.

**Creative Industry Professionals and Businesses:** Respondents argue that such transparency not only promotes trust among consumers, users, and fellow creators, but also serves to address the negative impact it can have on human creativity, trust, fairness, and competition. Alternatively, like the creators, those who opposed disclosure defended their position on grounds of impracticality or irrelevance. Some argued that given the widespread and diverse use of generative AI tools and techniques in different creative processes, such disclosure would be unrealistic and impossible to enforce, or that users or consumers would only be interested in the final product, not the process and who was involved in getting to the final piece.

**Industry Organisations and Advocacy Groups:** As with the other stakeholder groups, many are in favour of disclosure for reasons of transparency, plagiarism, and protection of copyrighted work, but for some also because it needs to be clear to the user how much human creativity goes into a work.

**Academics and Policymakers:** Compared to the previous categories, more respondents from the category of academics and policymakers were both indifferent and against disclosure, as the lack of feasibility and enforceability deters some respondents from disclosure requirements, especially in cases where generative AI is only used as a tool, for example in translation.

**Consumers and End Users:** Respondents outlined that disclosure is seen as "intellectual honesty to the public" and the ethically right thing to do, but also because when they know it is AI, "they feel like there is nobody on the other side of the conversation". However, many more stated that they were against disclosure. One respondent outlined that "it's like saying photographers should disclose that they use a camera. Once generative AI is widely adopted, I think it will be natural for generative AI to be used as part of the creative process".

**Question: Based on similar technology-based movements, do you anticipate that dedicated regulations will need to be created, or do existing copyright laws suffice to protect these works?**

There is a split in opinion among industry professionals and businesses and industry organisations and advocacy groups regarding the need for dedicated regulations for AI-generated content. Nearly half believe that existing copyright laws can be adapted to address the challenges posed by AI.

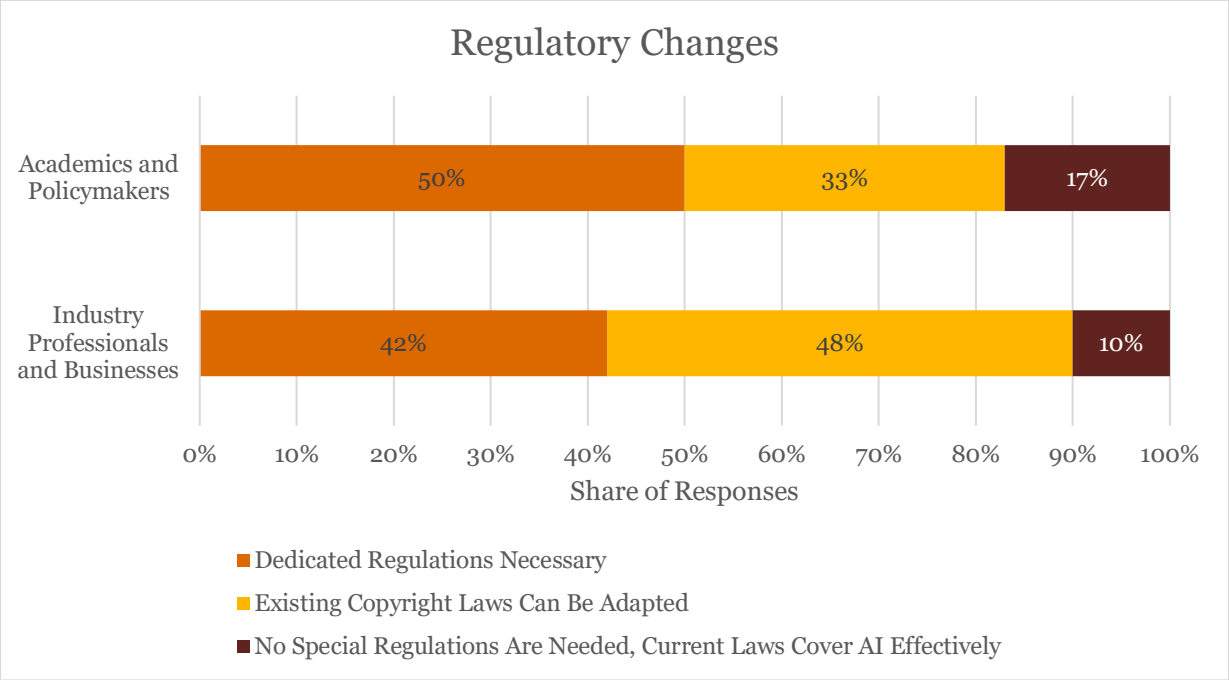


*Figure 11: Regulatory Changes [Questions F.6 (18 Respondents) and D.8 (48 Respondents)]*

The debate over the need for dedicated regulations highlights the complex legal and ethical questions surrounding AI-generated content. Stakeholders in the creative industry may require clearer guidance on issues such as ownership, attribution, liability, and fair use in the context of AI-generated content creation and distribution.

Many respondents comment that there should be a balance between the need for legal clarity and flexibility to foster innovation alongside collaboration and dialogue, between policymakers, legal experts, technologists, consumer advocates, creators.

Overall, the results show that AI-generated content will have different effects on different creative sectors, some may benefit from the increased efficiency, diversity, and accessibility of AI-generated content, while others may face the risk of losing their authenticity, uniqueness, and the human element. Some sectors may even experience more competition, disruption, and an overflow of content.

**Question: How confident are you in your ability to identify AI-generated content from solely human created content?**

Across all the responding categories, the majority express low to moderate confidence in their ability to identify AI-generated content.

The implications that this could have on the creative industry include the increasing sophistication of AI technologies mimicking human creativity which in turn could harm the authenticity and trust within the creative industry. Without clear means or confidence of distinguishing between the two, creators' risk having their original works misrepresented or exploited, while consumers may unknowingly engage with content devoid of human touch.

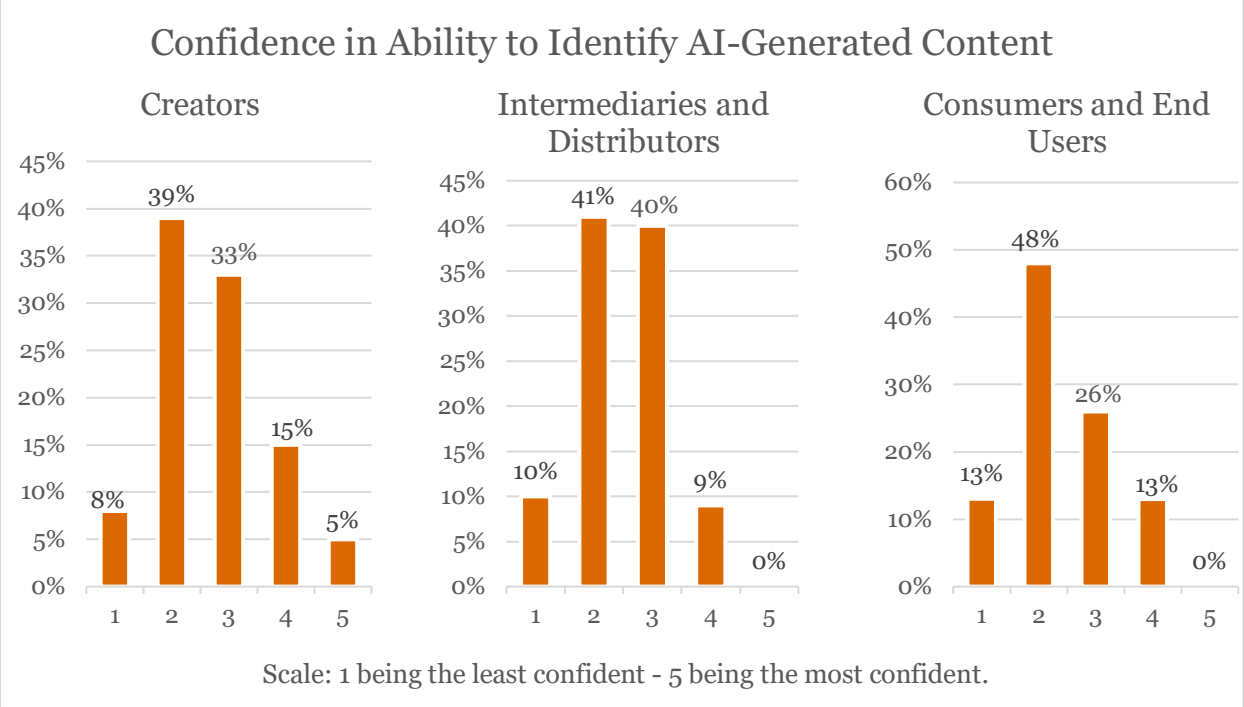


*Figure 12: Confidence in the Ability to Identify AI-Generated Content [Questions B.9 (150 Respondents), C.6 (70 Respondents) and G.7 (23 Respondents)]*

**Question: Have you noticed an increase in AI-generated content?**

Despite the low confidence in identifying AI-generated content, both consumers and end users and creative intermediaries and distributors perceive a significant increase in AI-generated content.

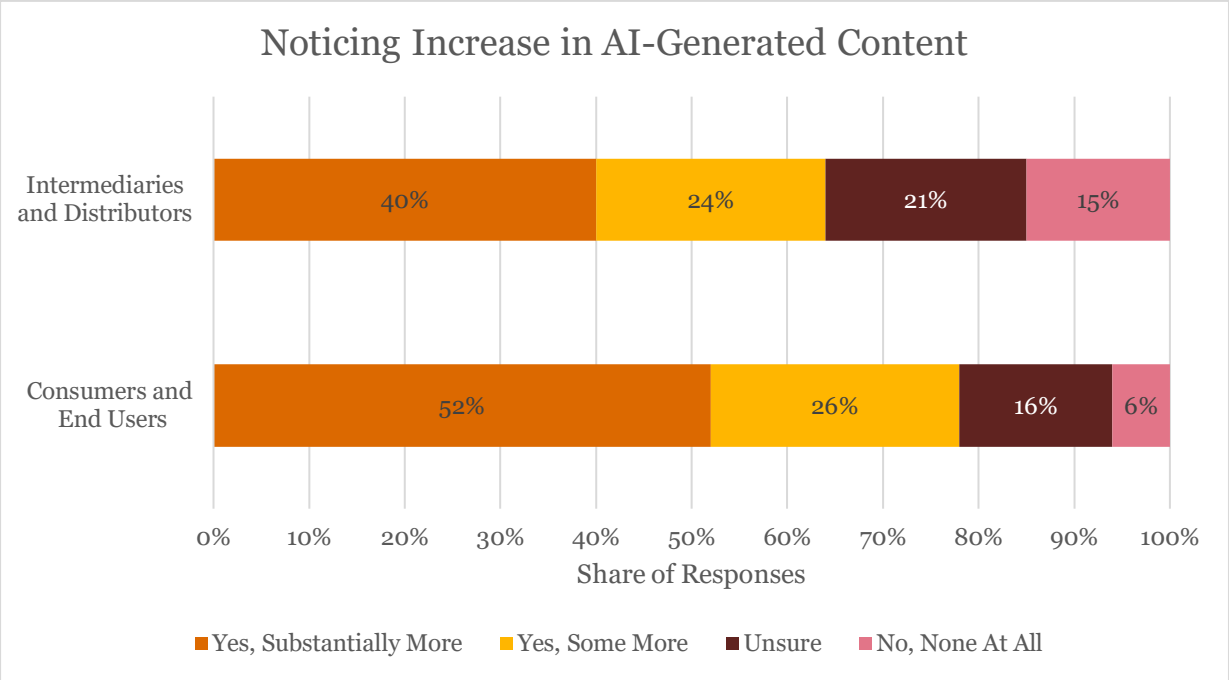


*Figure 13: Increase in AI-Generated Content [Questions C.1 (94 Respondents) and G. 1 (31 Respondents)]*

The perception of an increase in AI-generated content suggests a growing adoption of AI technologies within the creative industry. This trend may be driven by factors such as advancements in AI capabilities, increased accessibility of AI tools, and the potential for efficiency gains in content creation processes.

The rise in AI-generated content could have implications for production and distribution channels within the creative industry. Content creators may increasingly rely on AI to generate, curate, or personalise content, leading to shifts in workflows, business models, and market dynamics.

As outlined through the preceding questions, as AI-generated content becomes more prevalent, stakeholders may need to address concerns related to quality, authenticity, and differentiation.

**Question: Do you expect changes in business models and market structures as a result of AI?**

Across all responding categories, there is a strong expectation that changes in business models and market structures will occur as a result of generative AI.

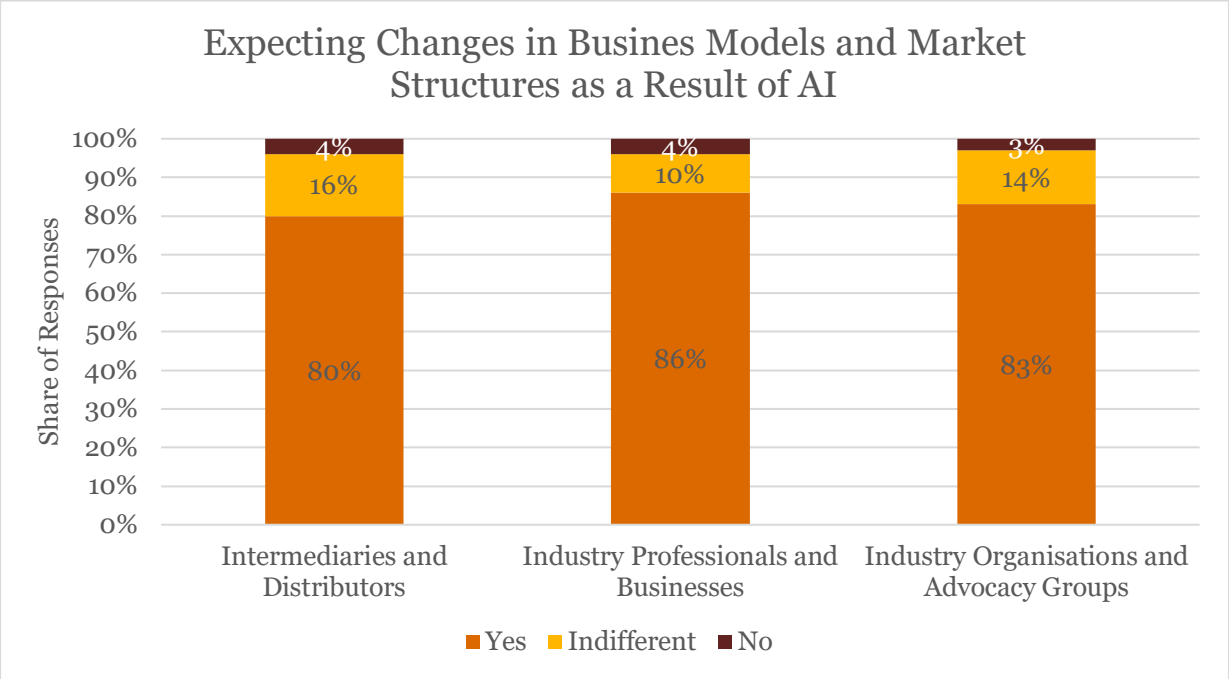


*Figure 14: Changes in Business Models and Market Structures [Questions C.4 (84 Respondents), D.2 (49 Respondents) and E.1 (42 Respondents)]*

The widespread expectation of changes in business models suggests that AI is likely to disrupt traditional approaches to content creation, distribution, and monetisation. Creative businesses may need to adopt new strategies to leverage AI technology effectively and remain competitive in the evolving marketplace.

Moreover, the expected shift in market structures: the anticipated changes in market structures indicate that AI will influence how value is created, captured, and distributed within the creative industry. This could involve shifts in power dynamics, the emergence of new market players, the reconfiguration of industry ecosystems to accommodate AI-driven innovations.

Among those anticipating changes, a diverse array of considerations was discussed. Key areas of change included the automation of creative processes, data mining, copyright protection and remuneration, journalistic credibility and relevance, customer contact and revenue, and new creative possibilities and challenges. A subset of respondents voiced apprehensions regarding the potential misuse of traditional work to train generative AI models and the loss of human skills and personality. Nevertheless, others saw opportunities for efficiency, innovation, and new forms of storytelling.

**Question: AI-generated content severely impacts the value of human-made content. Consumers perceive AI-generated content of much less value compared to human-generated content. Do you agree with this statement?**

Across all responding categories, there is a perception that AI-generated content holds less value compared to traditional human-generated content either entirely or to some extent.

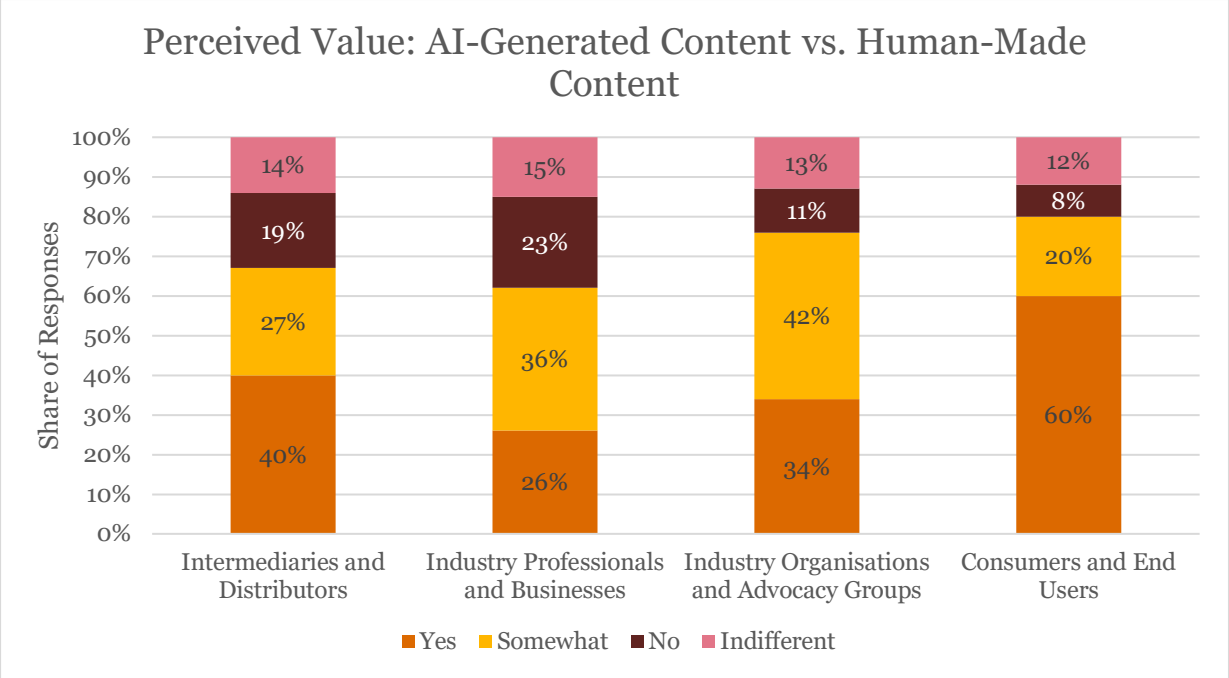


*Figure 15: Value of AI-Generated Content and Human Made Content [Questions C.7 (84 Respondents), D.1 (61 Respondents), E.6 (38 Respondents) and G.5 (25 Respondents)]*

The perception that AI-generated content holds less value raises concerns about its quality, authenticity, and cultural significance within the creative industry. Stakeholders question the uniqueness, creativity, and emotional resonance of AI-generated content compared to human-generated content.

A respondent from the creative industry professionals and businesses highlights that "the value depends on the feelings that are triggered" where only knowledge of the authorship may trigger a reduction of value if it was created by generative AI. Furthermore, highlighting that "human generated content is ready to be sent to a client while this would never be done with AI". To others, it is much more visible whether a work was created with AI due to reasons of lack of creativity and therefore do not have the same qualities as traditionally made work. Another respondent stated that "consumers have that perception, but it has been proven that Gen-AI can easily trick a human being by making them believe they are interacting with a human". For others the value depends on what the AI tool is being used for, if only for translations, then the question of "value" is limited.

**Question: Do you think AI-generated content will create new job opportunities and skill requirements in creative sectors?**

There is a general consensus across respondent categories that the rise of generative AI is expected to create some new job opportunities within the creative industry. Fewer respondents outright reject the idea of new job opportunities arising from the rise of Gen AI.

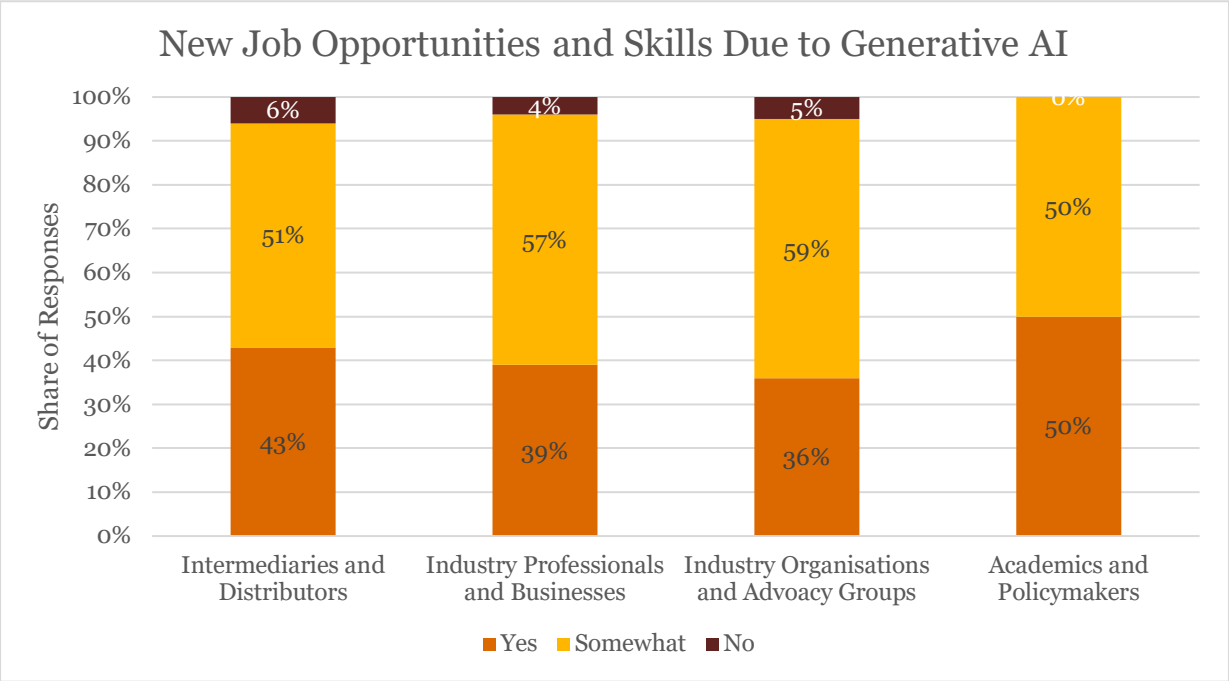


*Figure 16: New Job Opportunities and Skill Requirements Due to Generative AI [Questions C.8 (84 Respondents), D.4 (48 Respondents), E.2 (42 Respondents) and F.2 (20 Respondents)]*

Innovation and expansion the expectation of new job opportunities suggests that stakeholders within the creative industry could perceive generative AI as a catalyst for innovation, expansion, and growth.

All respondents highlight that the emergence of new job opportunities may require creative professionals to acquire and develop new skills to adapt to the changing landscape. This could involve upskilling in AI technologies and interdisciplinary collaboration to leverage the capabilities of generative AI.

Furthermore, the integration of AI technologies into the creative process may foster collaboration between humans and machines, leading to hybrid roles. Nevertheless, this may give rise to ethical and social considerations, especially regarding job displacement.

**Academics and Policymakers:**

Those who expressed scepticism outlined the need for careful consideration of copyright protection, social responsibility, and quality control in the context of AI-generated content. They highlighted that the impact of generative AI will vary on different creative professions, suggesting that not all sectors will be equally affected. There is a concern regarding the potential for job losses in certain areas without corresponding compensation through the creation of new opportunities.

**Question: Do you think that we possess sufficient resources to tap into these job opportunities and fill the upcoming roles in creative industries?**

There are varying perceptions across respondent categories regarding whether the creative industry has the skills and resources to harness the new job opportunities. The majority of respondents in each category express some level of uncertainty or belief that there is only partial readiness.

Among industry professionals and businesses and industry organisations and advocacy groups there is a clearer widespread of opinions as more believe the industry do have the necessary skills and resources to capitalise on the new job opportunities presented by generative AI.

Nevertheless, the perceived skills gap indicates that there is a need for investment and training in the capabilities of AI technologies.

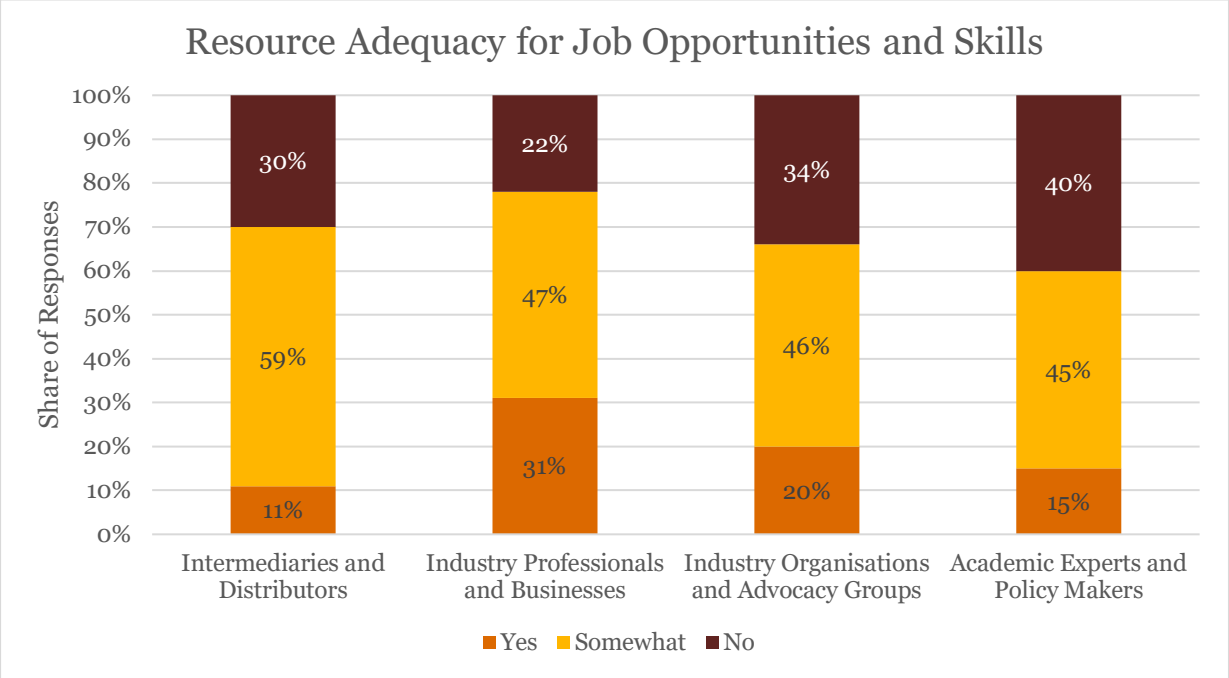


*Figure 17: Skills and Resources to Capitalise on New Roles in Creative Industries [Questions C.9 (83 Respondents), D.5 (46 Respondents), E.3 (41 Respondents) and F.3 (20 Respondents)]*

**Creative Intermediaries and Distributors:**

The substantial increase in AI-generated content, or awareness thereof, poses a pressing challenge for intermediaries and distributors tasked with curating and disseminating creative works. As generative AI technology advances, the lines between human and machine-produced content can blur, heightening the importance of mechanisms and processes to distinguish between the two. Respondents indicated that failure to do so accurately, may undermine the integrity and authenticity of creative industries but also exacerbates the concerns surrounding copyright infringement and intellectual property rights at large.

**Industry Organisations and Advocacy Groups:**

While recognising generative AI's ability to enhance creativity, innovation, productivity, and diversity, they also expressed concerns regarding the quality, ethics, legality, and competitiveness of AI-generated content. Emphasising the indispensable role of human oversight, collaboration and adaptation to new competences and tools.

Some respondents highlighted the influence of organisational size and age on preparedness, noting that smaller and younger media organisations may possess certain adaptability and other advantages in adapting to the rise of generative AI in comparison to larger and older counterparts.

**Academics and Policymakers:**

Most academics and policymakers also emphasised the lack of digital literacy, programming skills and overall, generative AI knowledge within the creative sector which can lead to barriers of time and money to truly understand and use generative AI. Some highlighted that there is a need for interdisciplinary dialogue, awareness, and education among both the creative professionals and the public at large.

## 7.3 Appendix 3: Individual Perspectives of the Stakeholder Groups

### *7.3.1 Creators*

In this survey, creators made up the majority of respondents. Within this category a range of professions ranging from journalists to architects to photographers.

Many respondents identified their occupations as “other”, highlighting the breadth and depth of their professional engagements. This includes those who pursue multiple types of creative occupations, but also management and administrative roles, directorial and production roles such as filmmakers, music producers, art, and design roles such as sculptors, visual artists including installation, photo, video, and performance, and performing arts roles such as choreographer and dancers.

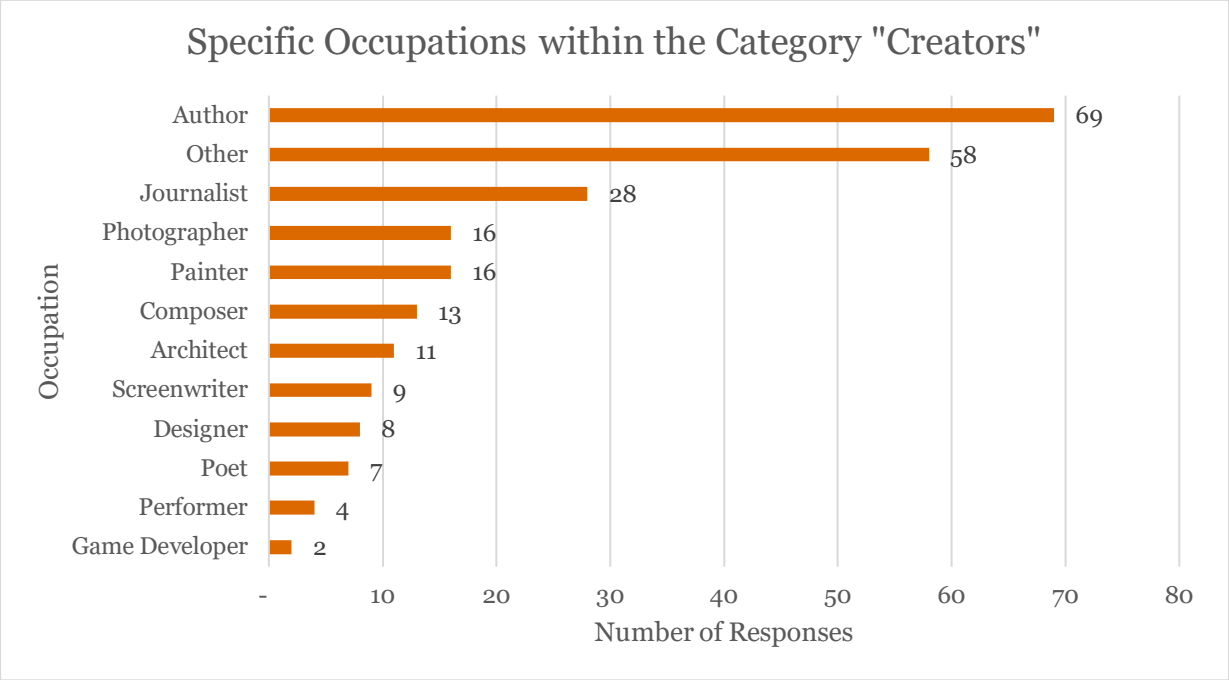


*Figure 18: Specific Occupations of Respondents within the Category "Creators" (241 Respondents) [Question A.4a]*

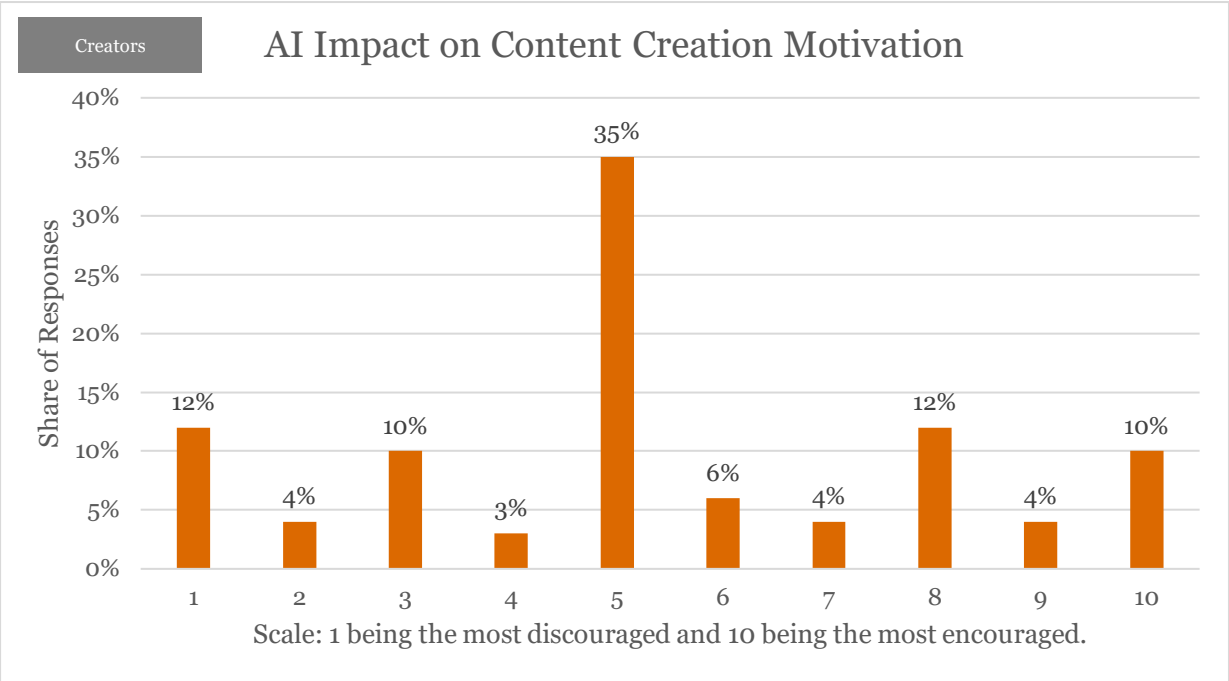


*Figure 19: Encouraged or Discouraged by AI (200 Respondents) [Question B.3]*

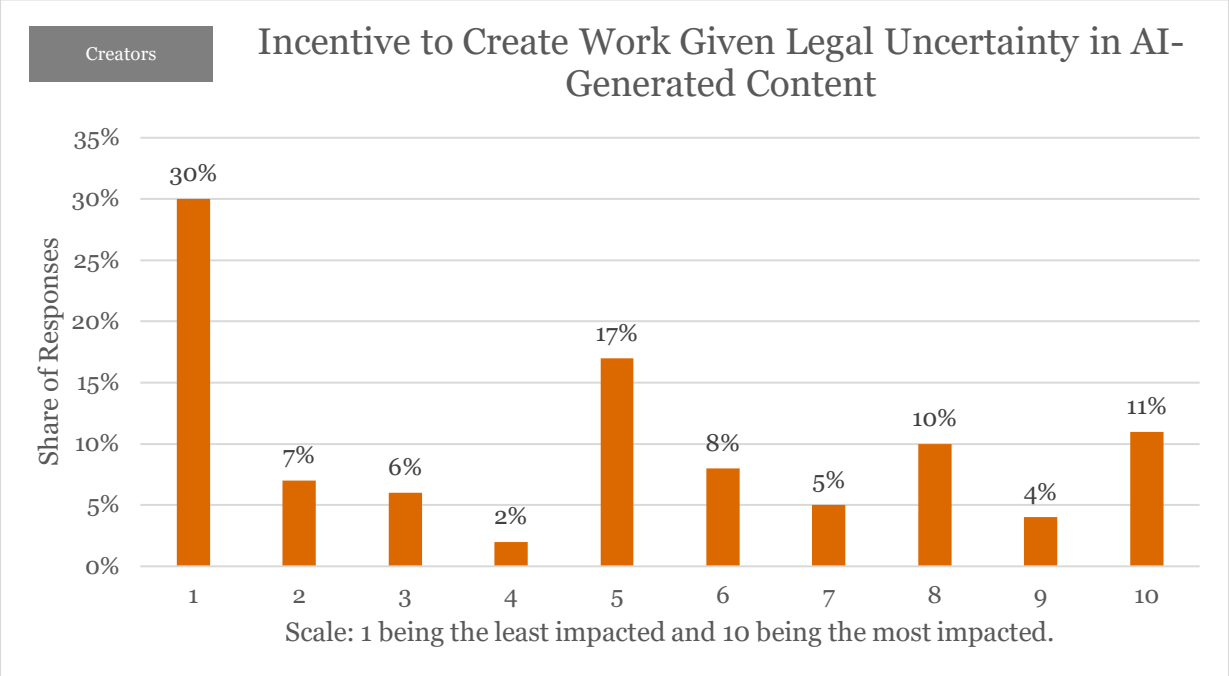


*Figure 20: Legal Uncertainty and Incentives (186 Respondents) [Question B.5]*

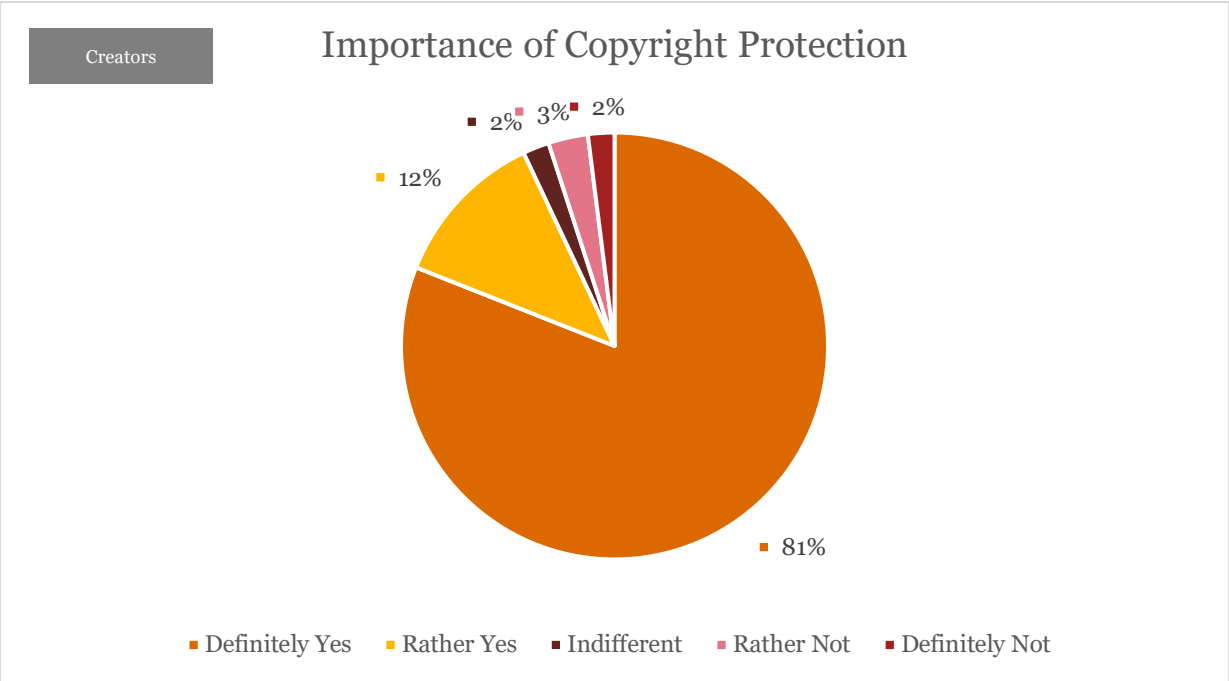


*Figure 21: Importance of Copyright Protection (208 Respondents) [Question B.1]*

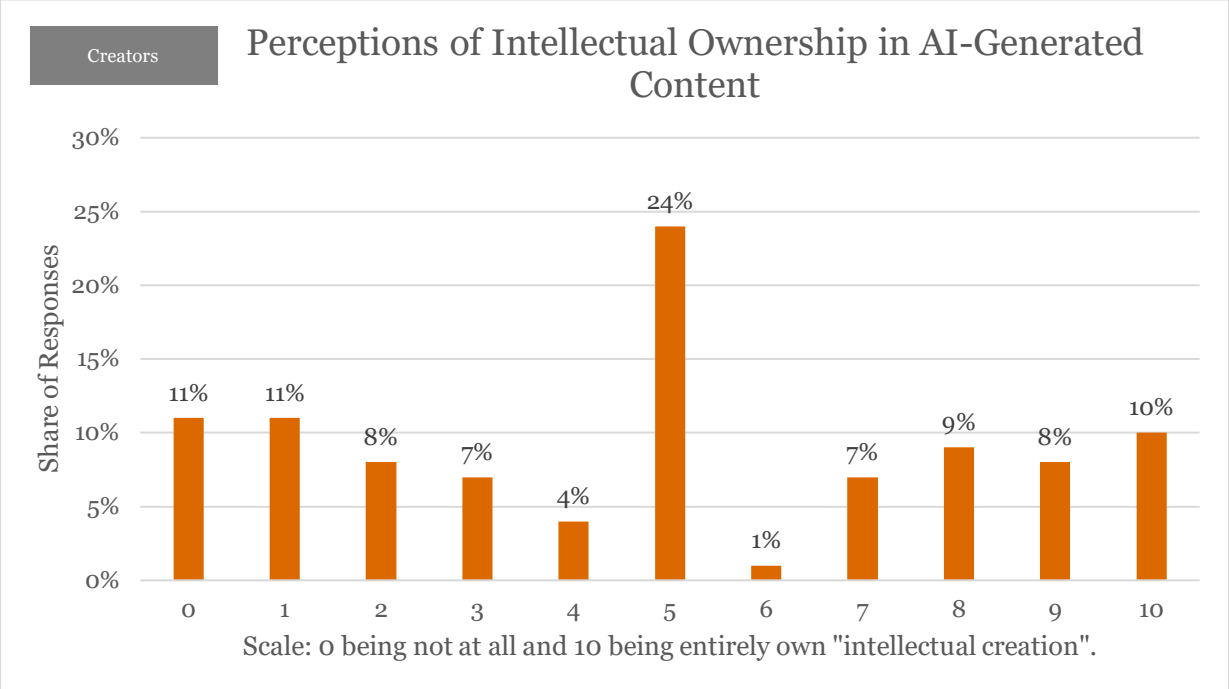


*Figure 22: Work with AI and Own Intellectual Creation (132 Respondents) [Question B.8]*

### *7.3.2 Creative Intermediaries and Distributors*

Among the respondents, 21% came from the category: creative intermediaries and distributors. Therein the most common type of respondents were publishers. Other respondents consisted of media, music, and rights managements.

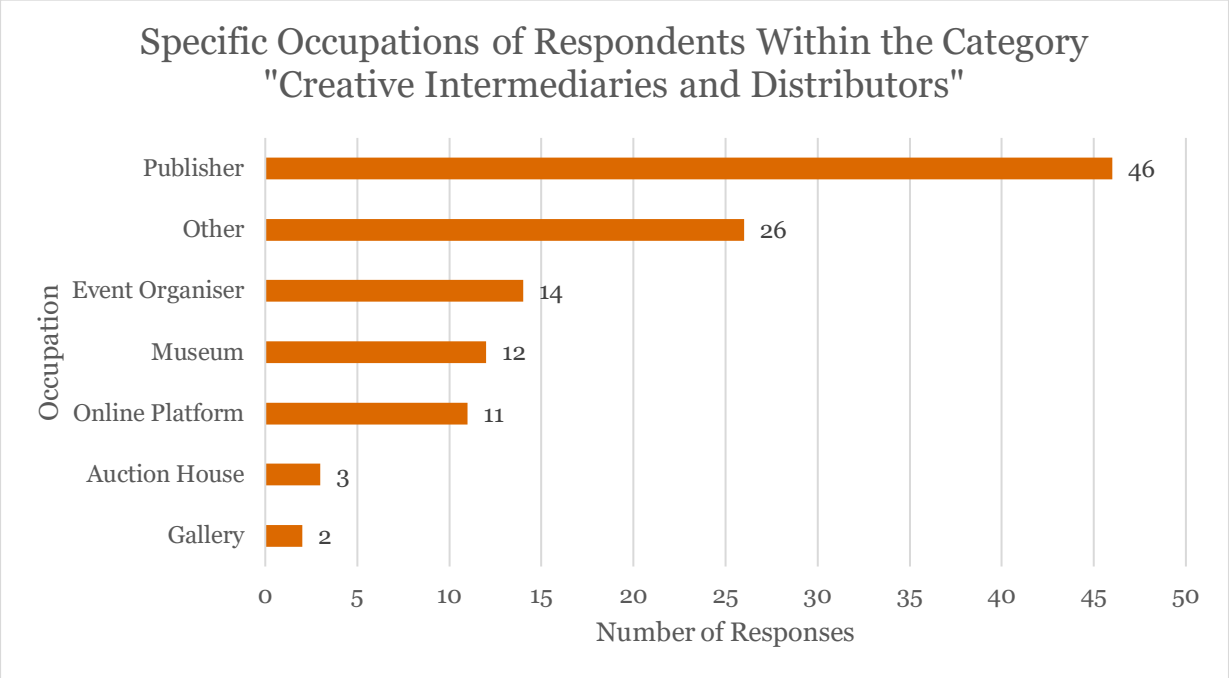


*Figure 23: Specific Occupations of Respondents within the Category "Creative Intermediaries and Distributors" (114 Respondents) [Question A.4b]*

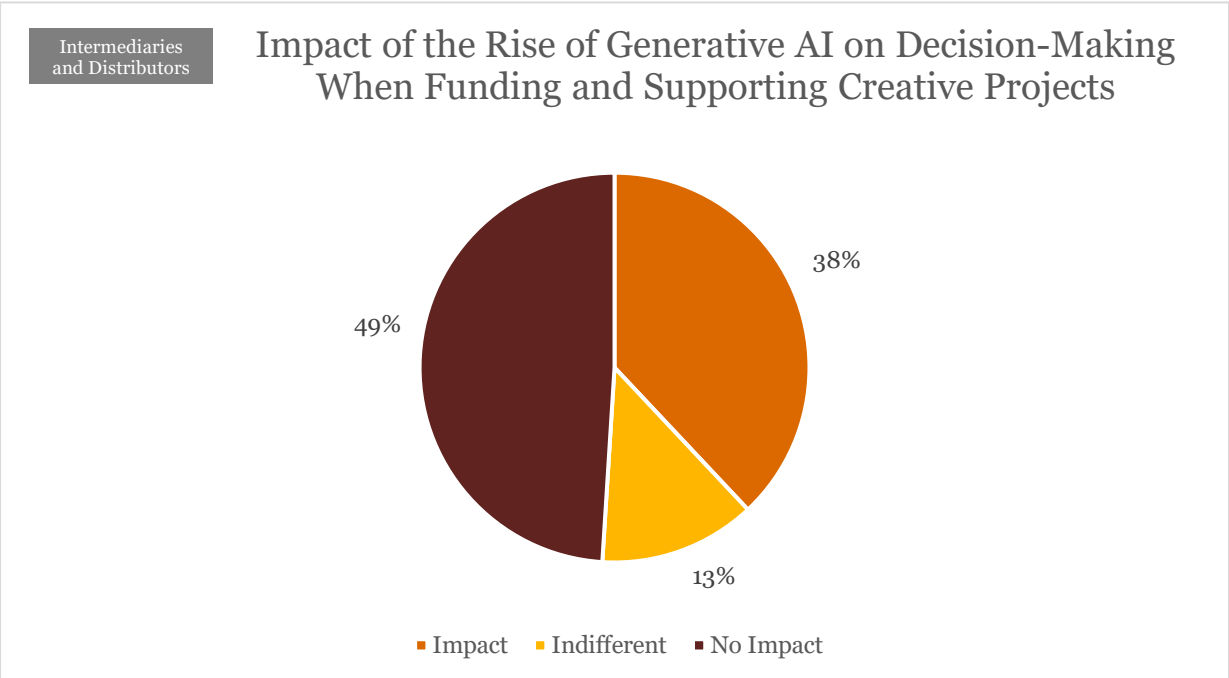


*Figure 24: Impact on Decision-Making (93 Respondents) [Question C.2]*

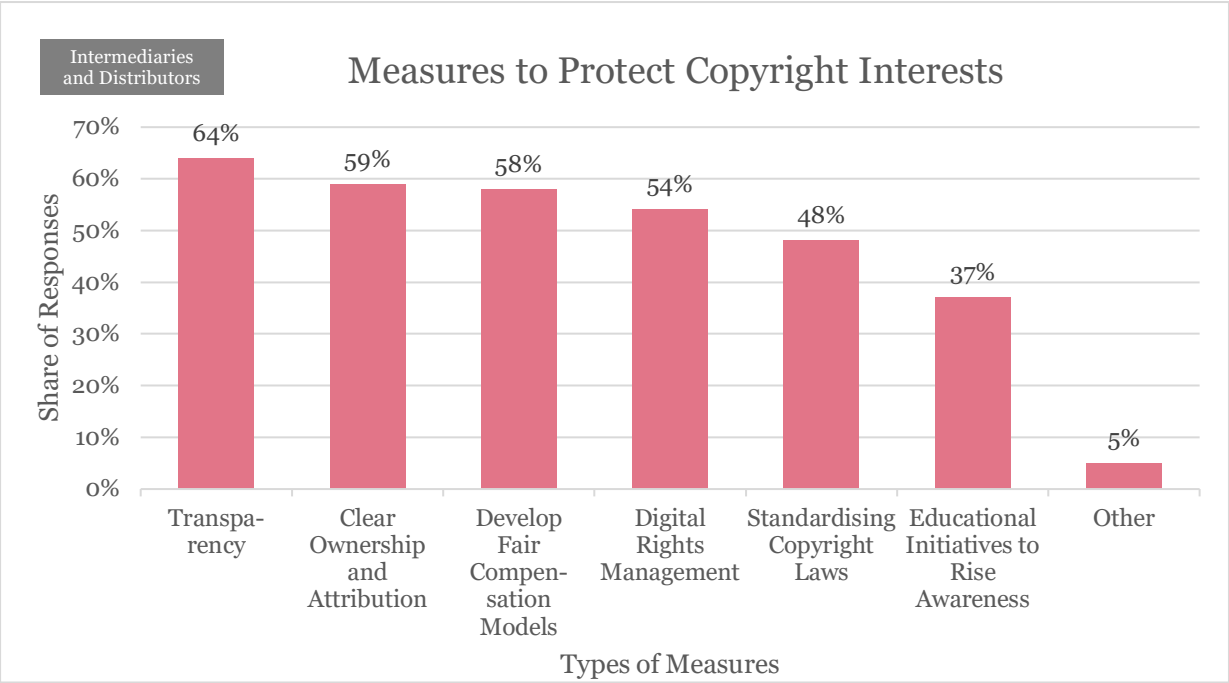


*Figure 25: Measures to Directly or Indirectly Protect Copyright Interests (Multiple Answers Possible) (84 Respondents) [Question C.3]*

### *7.3.3 Creative Industry Professionals and Businesses*

Among the surveyed participants, 12% represented creative industry professionals and businesses. Additionally, respondents categorised under the umbrella of "other" included a diverse array of professionals and organisations, including sound engineers, translation agencies, associations of public media companies, film agencies, printing companies, media producers, in-house counsel, sound recording and post-production technicians, and copyright management companies.

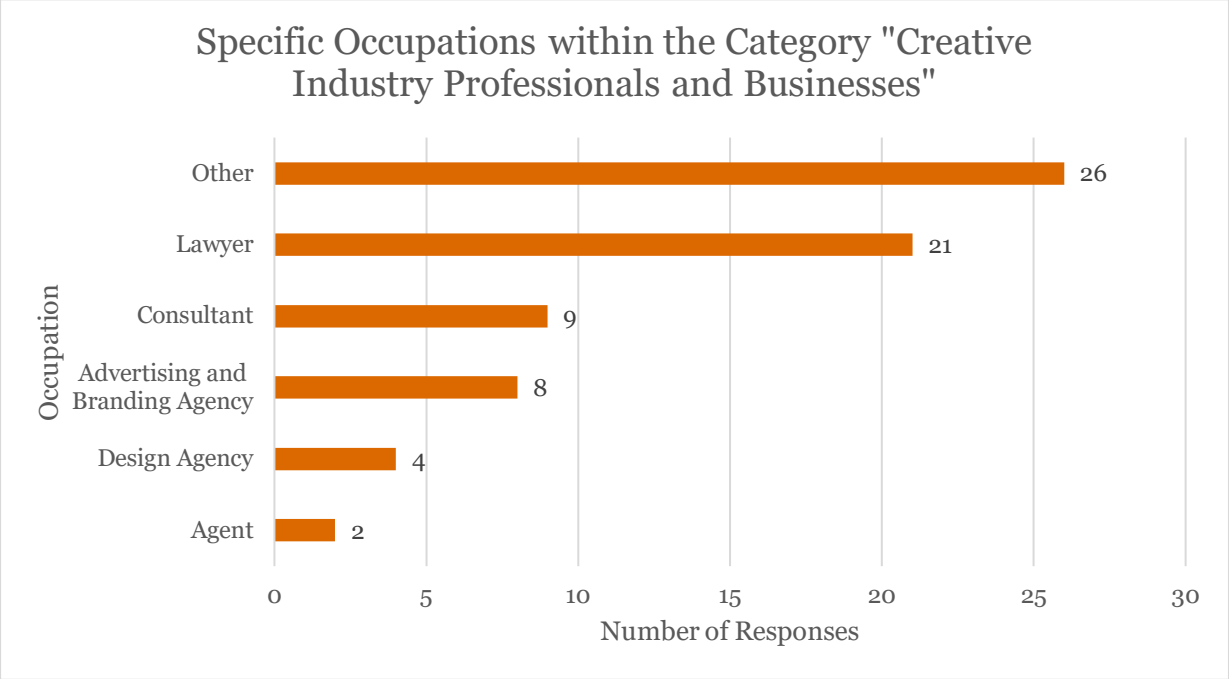


*Figure 26: Specific Occupations within the Category Creative Industry Professionals and Businesses (70 Respondents) [Question A.4c]*

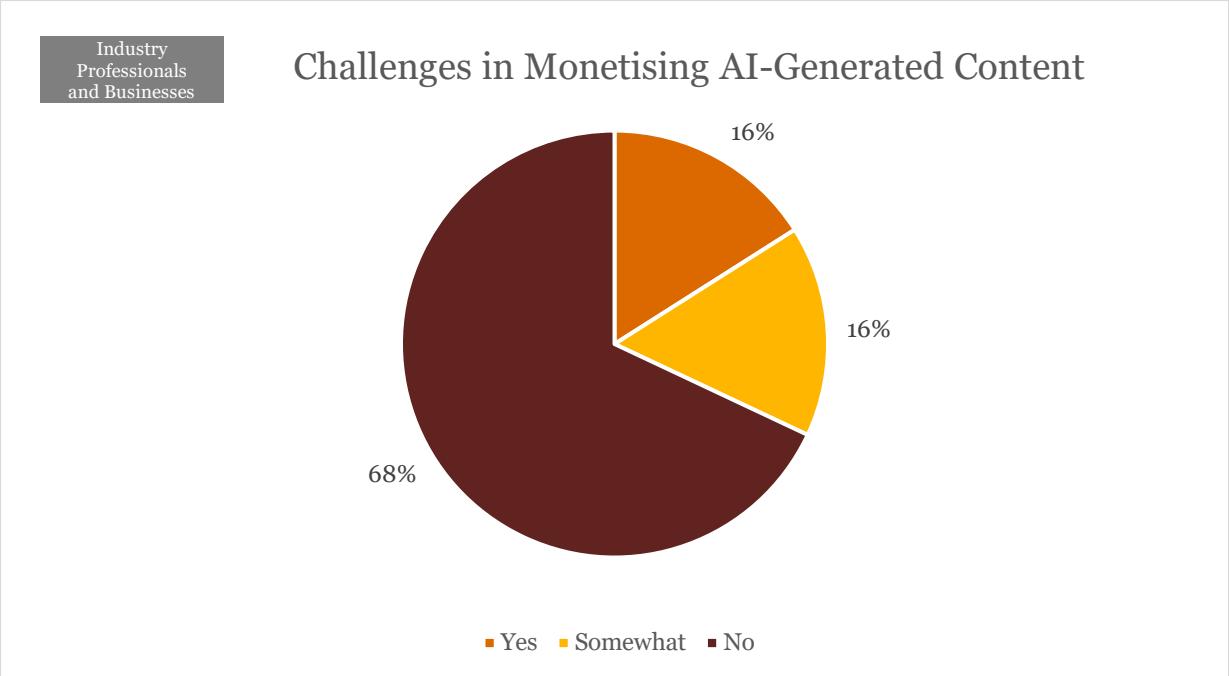


*Figure 27: Challenges in Monetising AI-Generated Content Compared to Traditional Content (45 Respondents) [Question D.3]*

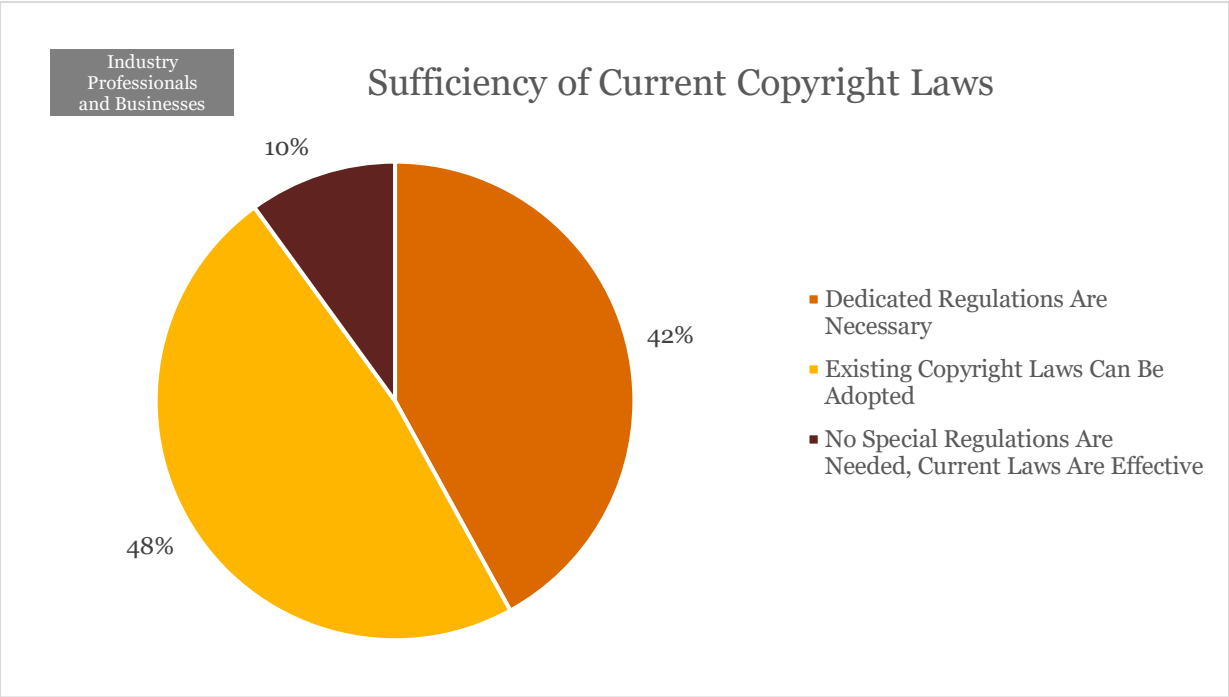


*Figure 28: New Regulations Needed or Current Copyright Laws Sufficient (48 Respondents) [Question D.8]*

### *7.3.4 Industry Organisations and Advocacy Groups*

Delving into the category of Industry Organisations and Advocacy Groups, key stakeholders included federations, programmers, cooperatives and collecting societies.

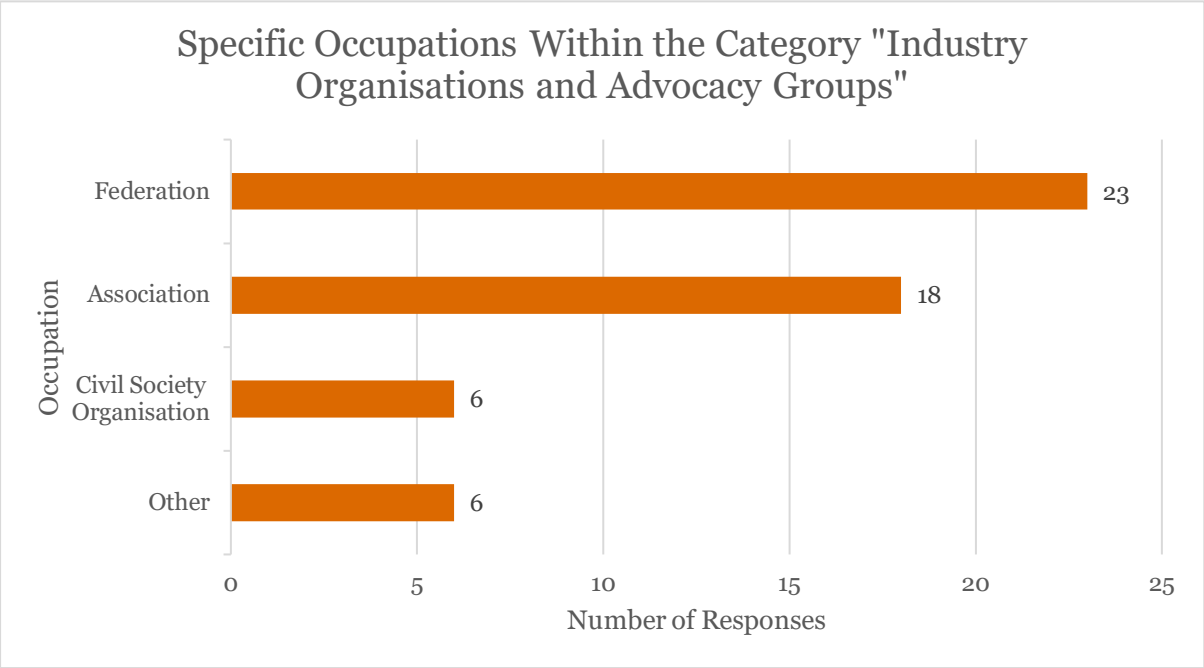


*Figure 29: Specific Occupations within the Category Industry Organisations and Advocacy Groups (53 Respondents) [Question A.4d]*

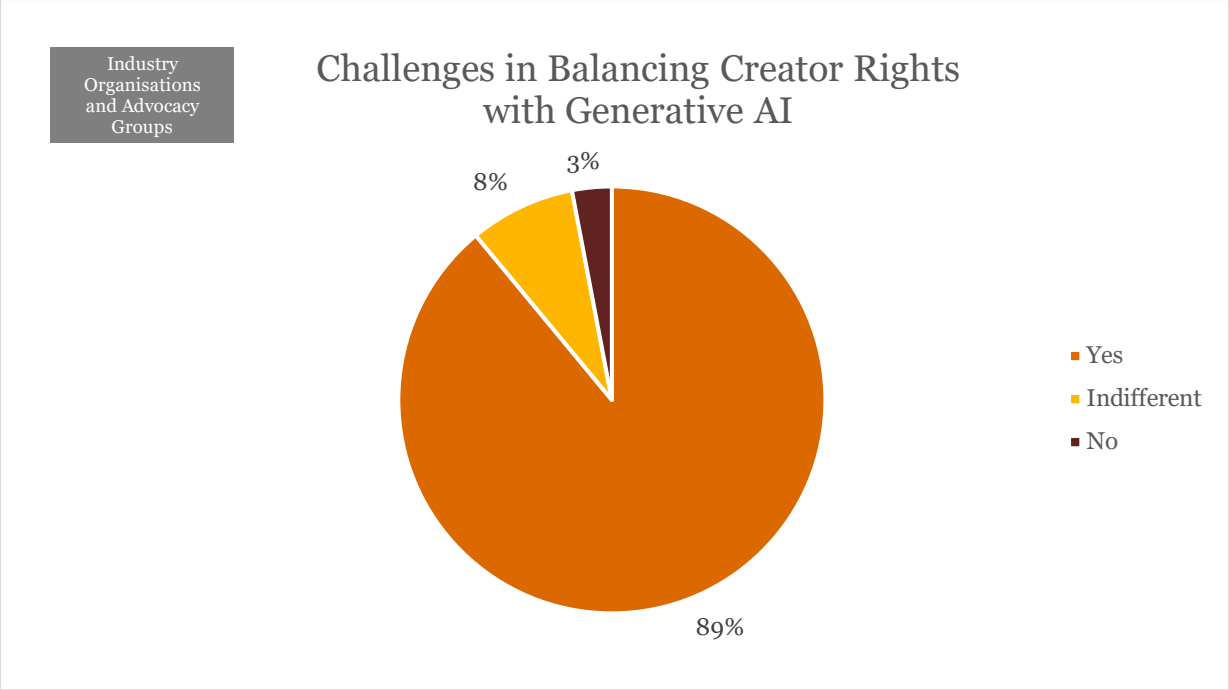


*Figure 30: Challenges in Protecting Creators' Rights (38 Respondents) [Question E.7]*

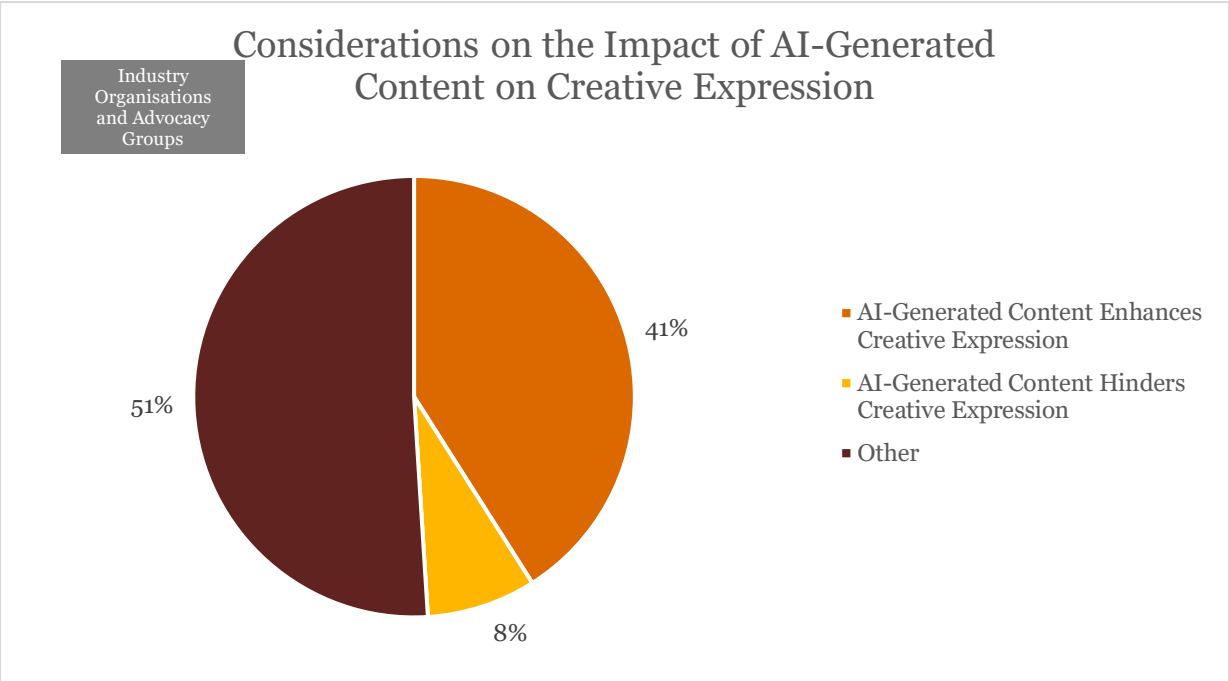


*Figure 31: Concerns Regarding Creative Expression (37 Respondents) [Question E.8]*

### *7.3.5 Academics and Policymakers*

Academics and policymakers constituted 4% of the total respondents. The "other" respondents were not further elaborated on.

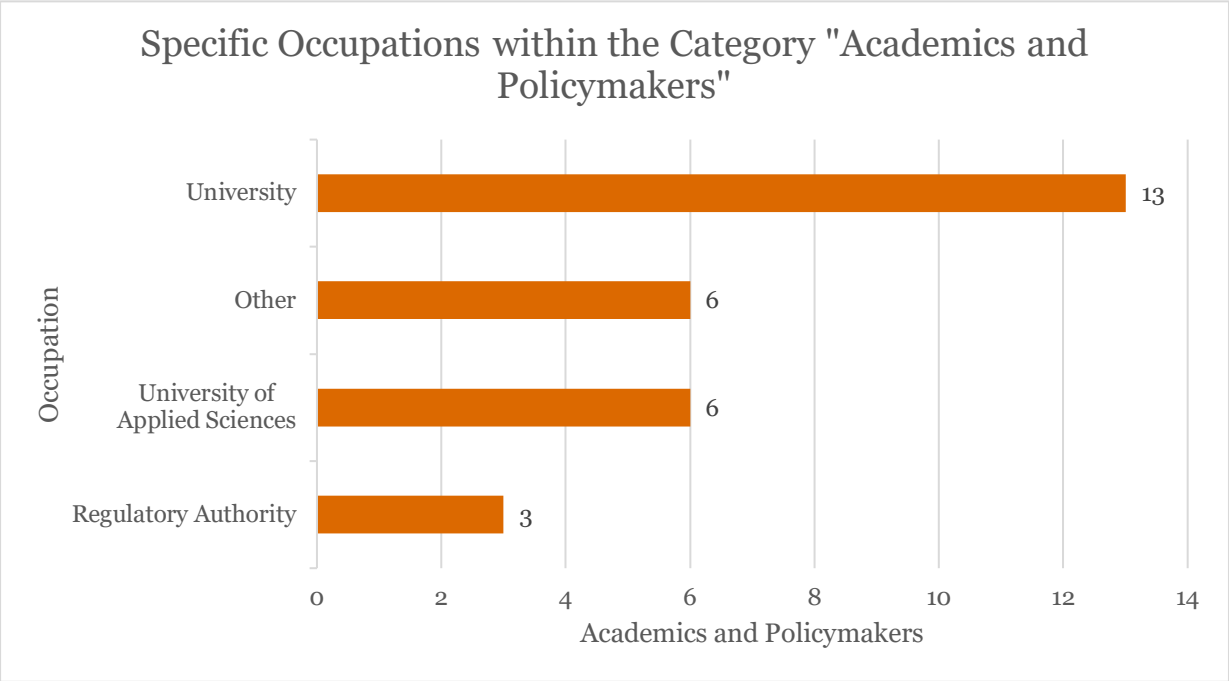


*Figure 32: Specific Occupations within the Category Academics and Policymakers (28 Respondents) [Question A.4e]*

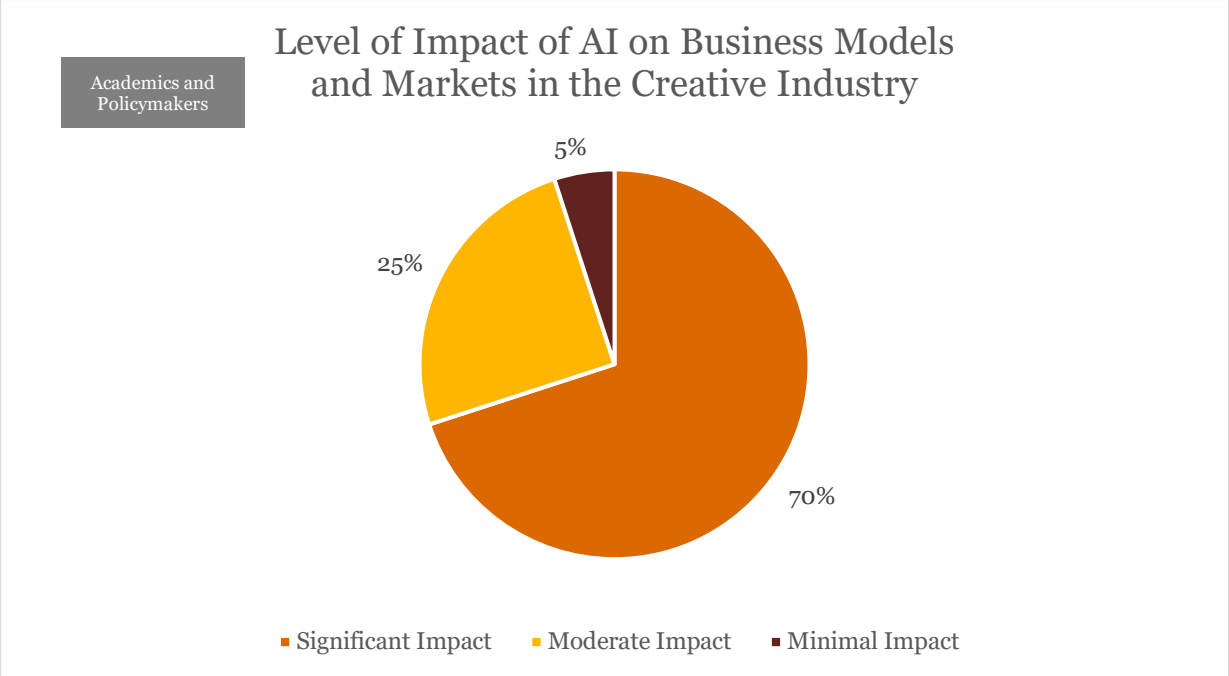


*Figure 33: Impact on Business Models and Markets (20 Respondents) [Question F.1]*

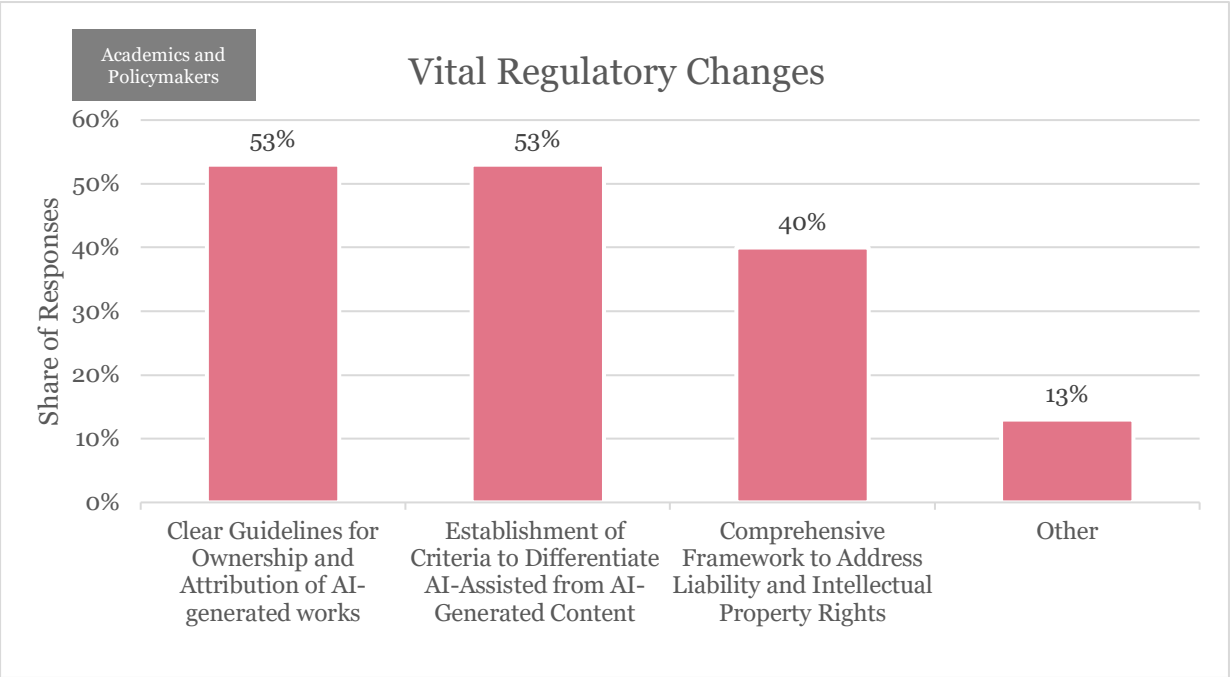


*Figure 34: Specific Changes Likely to be Vital for Addressing AI-Generated Content Appropriately (Multiple Answers Possible) (15 Respondents) [Question F.7]*

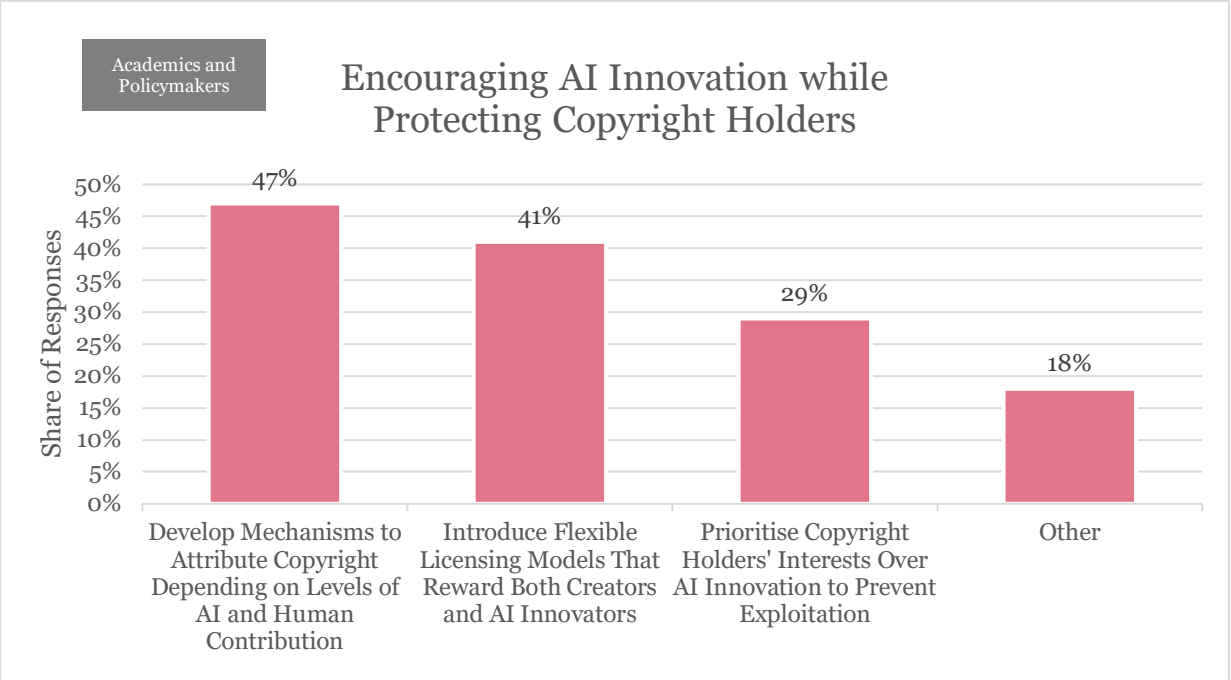


*Figure 35: How Policymakers can Balance the Encouragement of AI Innovation with the Protection of Copyright Holders (Multiple Answers Possible) (17 Respondents) [Question F.8]*

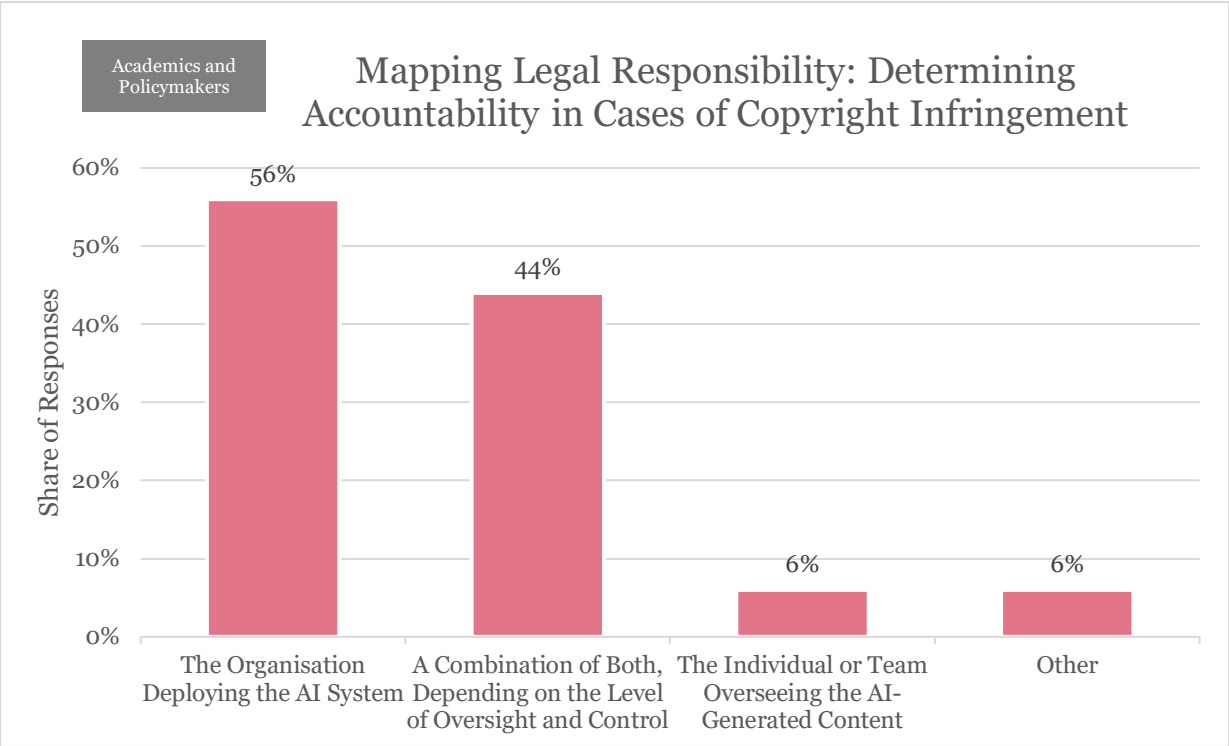


*Figure 36: In Cases of Copyright Infringement Involving AI-Generated Content, Who Should Hold the Legal Responsibility? (Multiple Answers Possible) (18 Respondents) [Question F.9]*

### *7.3.6 Consumers and End Users*

The consumer category in this study included companies that create or buy creative works, as well as music listeners, art, and movie viewers. Those who identified themselves as "other" consisted of consumers of creative works in their daily life, such as music, visual art, theatre and movies, lawyers, and IT specialists.

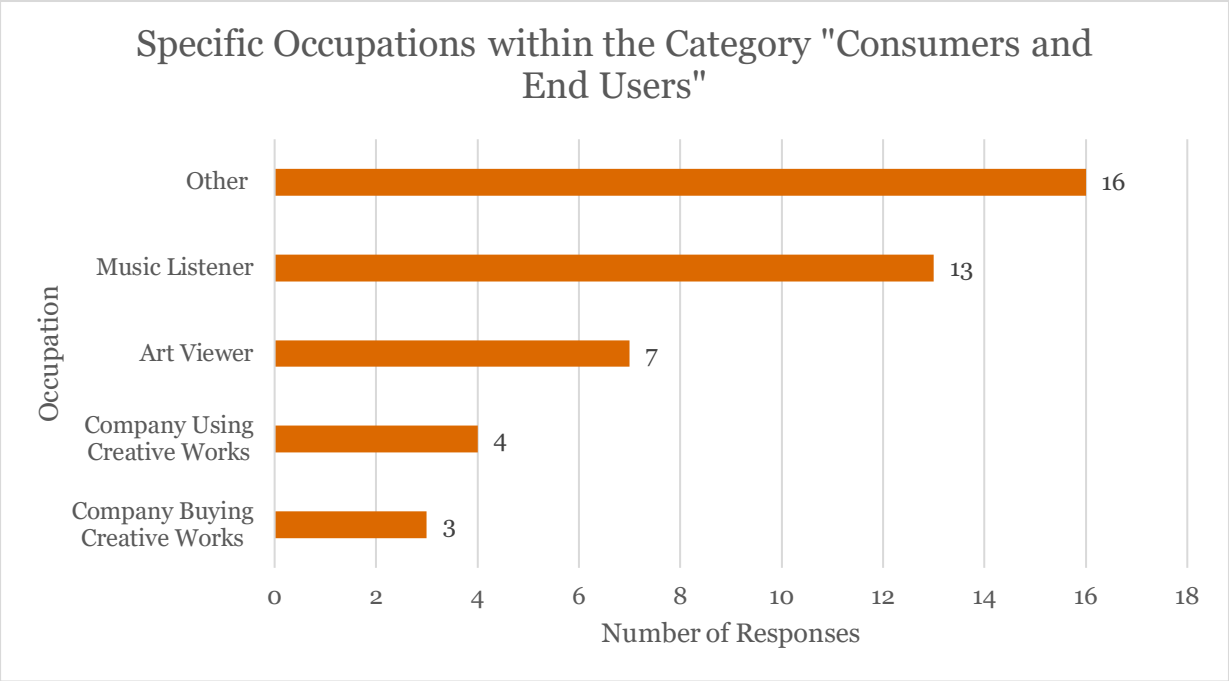


*Figure 37: Occupation within the Category "Consumers and End Users" (43 Respondents) [Question A.4f]*

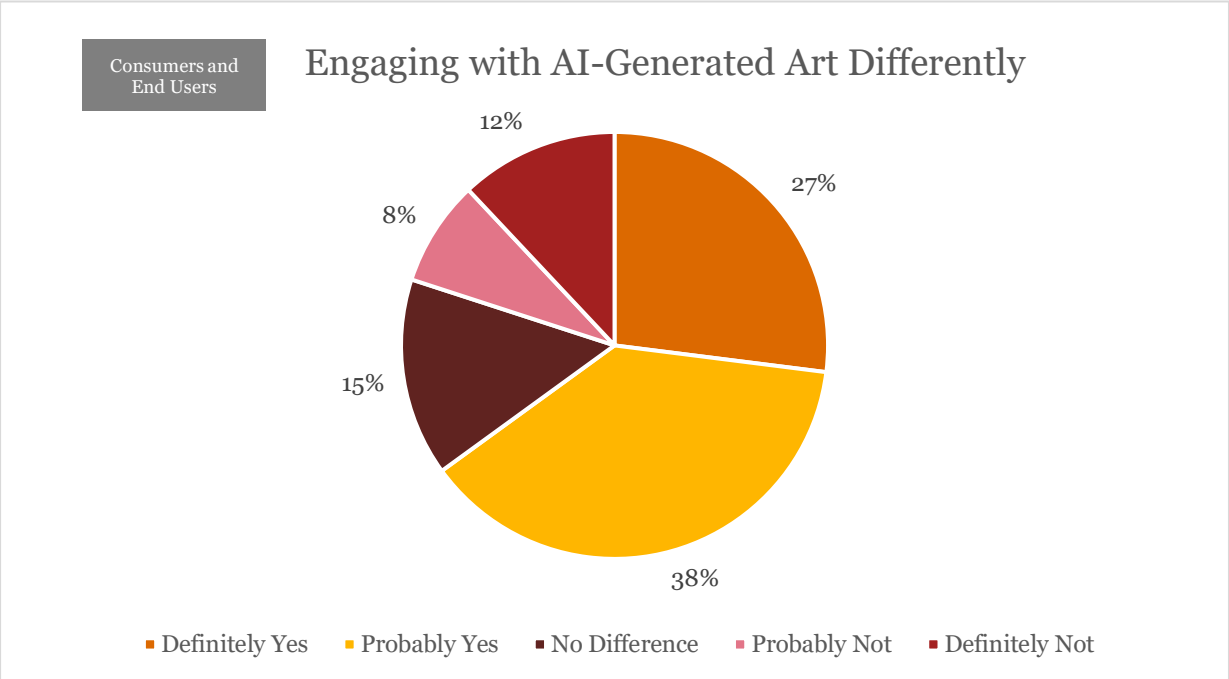


*Figure 38: Engage Differently with AI-Generated Art Compared to Human-Made Art (26 Respondents) [Question G.8]*

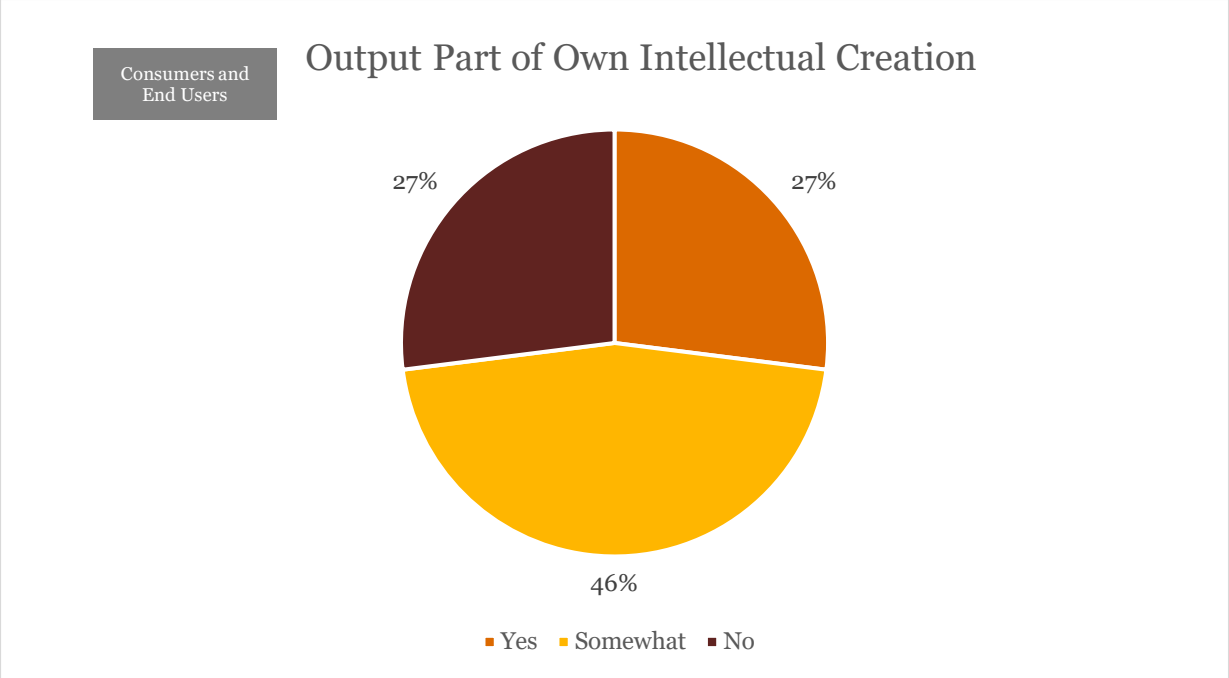


*Figure 39: Output and Intellectual Creation (26 Respondents) [Question G.3]*

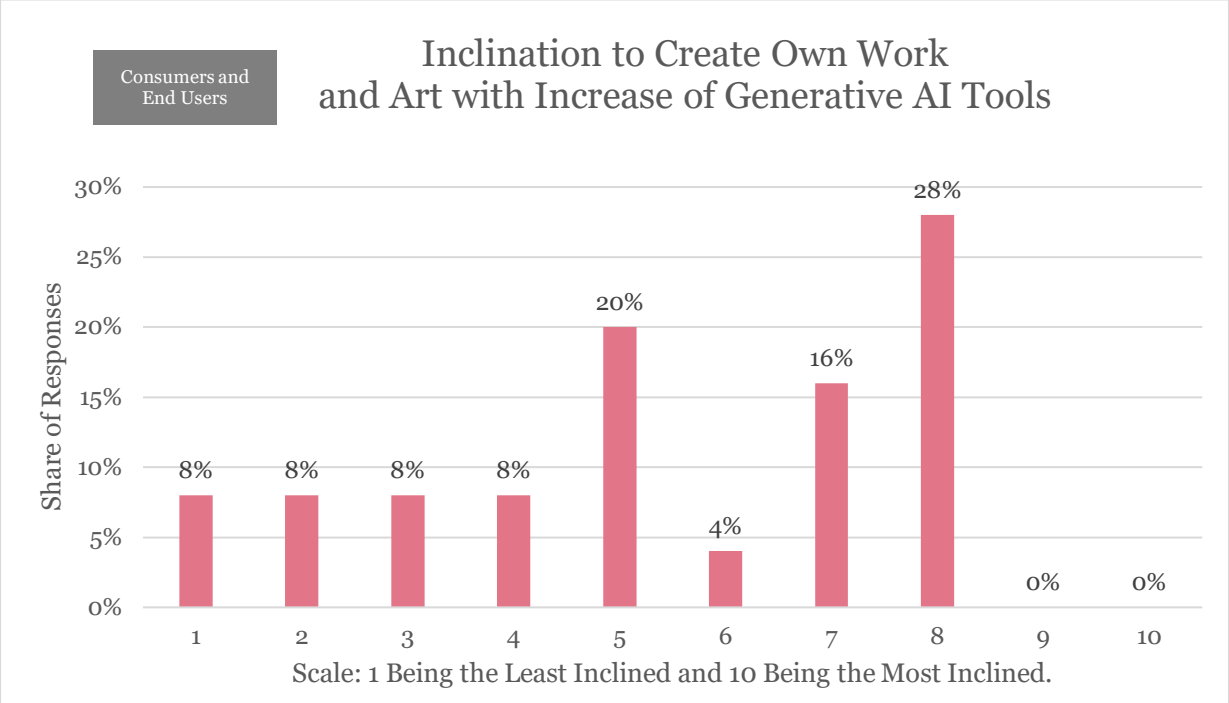


*Figure 40: Inclination of Creation of Own Work and Art with Generative AI Tools (25 Respondents) [Question G.2]*

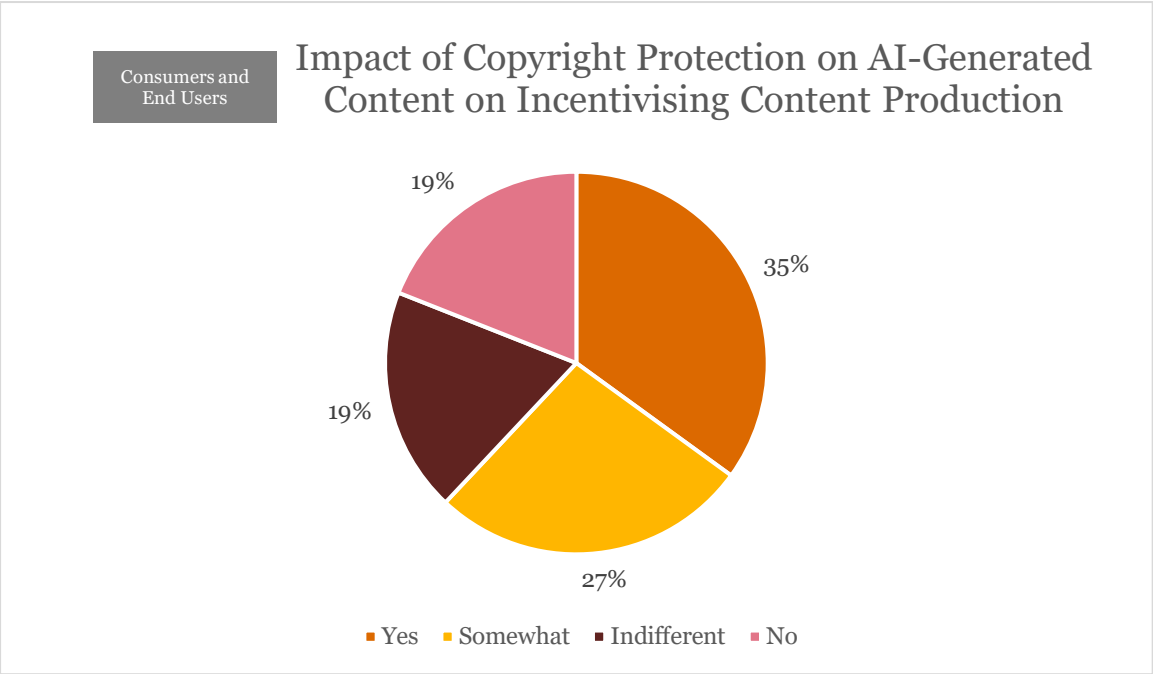


*Figure 41: Copyright Protection and Heightening of Incentives to Create Work (26 Respondents) [Question G.4]*

## 7.4 Appendix 4: Questionnaire

| **Category: All** | | |
|---|---|---|
| **Question Number** | **Questions** | **Answer Options** |
| A.1 | In which region of Switzerland is your place of work? | a. Eastern Switzerland (St. Gallen, Thurgau, Appenzell Inner Rhodes, Appenzell Outer Rhodes, Glarus, Schaffhausen, Grisons)<br>b. Central Switzerland (Uri, Schwyz, Obwalden, Nidwalden, Lucerne, Zug)<br>c. Northwestern Switzerland (Basel-City, Basel-Landschaft)<br>d. Espace Mittelland (Berne, Solothurn, Fribourg, Neuchâtel, Jura)<br>e. Ticino<br>f. Lake Geneva Region (Geneva, Vaud, Valais)<br>g. Zurich or Aargau |
| A.2 | How many people are employed in your organization? Please select the appropriate answer. | a. 1. 1-9 employees<br>b. 2. 10-49 employees<br>c. 3. 50-249 employees<br>d. 4. 250-999 employees<br>e. 5. 1000+ employees |
| A. 3 | Please indicate your status/affiliation (this means in which role or function are you completing this survey). | a. Creators: These are persons who produce original or innovative content, products, services, or experiences that have artistic, cultural, or entertainment value. Examples include authors, painters, sculptors, photographers, singers, musicians, songwriters, editors, web designers, graphic designers, architects, etc.<br>b. Creative Intermediaries and Distributors: These are agents, organizations, or platforms that facilitate the production, dissemination, exchange, or consumption of creative goods and services, such as artworks, cultural products, media content, or design solutions. Examples include museums, auction houses or publishers.<br>c. Creative Industry Professionals and Businesses: Individuals or organizations that work in or provide services to the creative industries. Examples include design agencies, consultants, law firms, etc.<br>d. Industry Organisations and Advocacy Groups: Among their goals is to represent the interests of artists and creatives, by providing them for example with advocacy, information, education, training, networking, promotion, recognition, or support services. They may also engage in |

| | | |
|---|---|---|
| | | policymaking, research, lobbying, standard-setting, accreditation, certification, or regulation activities. Examples include various associations or federations.<br>e. Academics and policymakers: This includes organisations and individuals in the academic area and policy makers, for example universities or regulatory authorities.<br>f. Consumers and End Users: This includes organisations and individuals that are actually consuming various forms of art, for examples buyers of paintings, music listeners, art viewers, etc. |
| A.4a | More specifically, what is your occupation? (Creators) | a. Designer<br>b. Game Developer<br>c. Journalist<br>d. Painter<br>e. Performer<br>f. Photographer<br>g. Poet<br>h. Screenwriter<br>i. Other |
| A.4b | More specifically, what is your occupation? (Creative Intermediaries and Distributors) | a. Art Dealer<br>b. Auction House<br>c. Event Organiser<br>d. Gallery<br>e. Museum<br>f. Online Platform<br>g. Publisher<br>h. Other |
| A.4c | More specifically, what is your occupation? (Creative Industry Professionals and Businesses) | a. Advertising and branding agency<br>b. Agent<br>c. Consultant<br>d. Design Agency<br>e. Lawyer<br>f. Other |
| A.4d | More specifically, what is your occupation? (Industry Organisations and Advocacy Groups) | a. Association<br>b. Civil Society Organisation |

| | | |
|---|---|---|
| | | c. Community<br>d. Federation<br>e. Other |
| A.4e | More specifically, what is your occupation? (Academics and policymakers) | a. University<br>b. University of Applied Sciences<br>c. Educational Institution<br>d. Regulatory Authority<br>e. Other |
| A.4f | More specifically, what is your occupation? (Consumers and End Users) | a. Company using creative works<br>b. Company buying creative works<br>c. Music listener<br>d. Art viewer<br>e. Other |
| A.5 | Are you familiar with generative AI applications (e.g., but not limited to: ChatGPT) in your professional work? | a. No, I do not use any generative AI and have **no plans to try it**<br>b. No, I do not use any generative AI but **would like to try it**<br>c. Yes, I use generative AI, but **only occasionally when needed**<br>d. Yes, I use generative AI **at least once a week**<br>e. Yes, I use generative AI **at least once a day** |
| A.6a | *If respondent answered "no", and no plans to try it"*<br>Why do you not use generative AI? | a. Lack of understanding (e.g. technical know-how)<br>b. Privacy concerns<br>c. Lack of relevance or interest<br>d. Lack of trust (e.g. in reliability or performance)<br>e. Lack of access (e.g. because access is regulated or prohibited by employer)<br>f. Other, please specify |
| A.6b | *If respondent answered "yes"*<br>What have you thus far used generative AI for? | a. Summarising texts (e.g. blogposts, song texts, etc.)<br>b. Research<br>c. Translations<br>d. Audio generating (e.g. voice recording, voice reproduction)<br>e. Producing of images (e.g. in commercials, video games)<br>f. Generating ideas<br>g. Personalisation of media, entertainment, and advertising content (e.g. content adaption to customer needs, personalised recommendations)<br>h. Transcription (e.g. verbal interviews) |

| | | |
|---|---|---|
| | | i. Other, please specify |
| A.6c | *If respondent answered "no, and no plans to try it"*<br><br>For which purposes could generative AI be used in your line of business? | a. Summarising texts (e.g. blogposts, song texts, etc.)<br>b. Research<br>c. Translations<br>d. Audio generating (e.g. voice recording, voice reproduction)<br>e. Producing of images (e.g. in commercials, video games)<br>f. Generating ideas<br>g. Personalisation of media, entertainment, and advertising content (e.g. content adaption to customer needs, personalised recommendations)<br>h. Transcription (e.g. verbal interviews)<br>i. Other, please specify |

| **Category: Creators** | | |
|---|---|---|
| **Question Number** | **Questions** | **Answer Options** |
| B.1 | Is having your work protected by copyright important to you? | a. Definitely not<br>b. Rather not<br>c. Indifferent<br>d. Rather yes<br>e. Definitely yes |
| B.2 | Does generative AI benefit or disadvantage your content creation process?<br><br>Please rate on a scale of 1-10 with 1 being the most disadvantaged to 10 being the most advantaged | Please elaborate your answer |
| B.3 | Do you feel more discouraged or encouraged by AI to generate content? Please rate from a scale of 1-10 with 1 being the most discouraged to 10 being the most encouraged. | Please elaborate your answer |
| B.4a* | *If respondent chose from 1 to 4*<br><br>Do you feel discouraged in continuing your work due to, for example:<br><br>- The increasing performance of content generating AI systems<br>- The increasing amount of digital content due to the use of generative AI systems by non-professionals and professionals? | a. Yes<br>b. No<br>c. Other<br><br>Please elaborate your answer |
| B.4b* | *If respondent chose from 6 to 10*<br><br>Do you feel encouraged in continuing your work due to, for example: | a. Yes<br>b. No<br>c. Other<br><br>Please elaborate your answer |

| | | |
|---|---|---|
| | - The increasing performance of content generating AI systems<br>- The increasing amount of digital content due to the use of generative AI systems by non-professionals and professionals? | |
| B.4c* | *If respondent chose 5*<br><br>Do you feel more encouraged or discouraged in continuing your work due to:<br><br>- The increasing performance of content generating AI systems<br>The increasing amount of digital content due to the use of generative AI systems by non-professionals and professionals? | a. Yes<br>b. No<br>c. Other<br><br>Please elaborate your answer |
| B.5 | Does the legal uncertainty around authorship of AI-generated and AI-assisted work impact your incentive to create work?<br><br>1 being the least impacted and 10 being the most impacted. | |
| B.6 | Do you think AI-generated content should be copyright protected? Why or why not? | a. Yes<br>b. No<br>c. Indifferent<br><br>Please elaborate your answer |
| B.7 | Should creators disclose whether their content was generated using AI? Why or why not? | a. Yes<br>b. No<br>c. Indifferent<br><br>Please elaborate your answer |
| B.8 | How much do you consider the work you create with AI as your own “intellectual creation”? | Please elaborate your answer |

| | | |
|---|---|---|
| | Please rate on a scale from 1 to 10 | |
| B.9 | How confident are you in your ability to identify AI-generated content from solely human-created content?<br><br>1 being the least confident and 5 being the most confident. | |

***Introduction Text (Background)**

Works created in a traditional way require human creativity. AI-generated works require an AI-system and prompts, ML algorithms and deep learning techniques. AI system result from human engineering.

Currently, Swiss law does not qualify the author of the AI-code or -programme as the author of the AI-generated work. Their creative decisions are reflected in the AI-code but do not extend to the resulting work, which thus is not their "own intellectual creation".

For work to be afforded copyright protection, there needs to be a human creative input, reflected in the final work. It will have to be assessed to what extent there has been a human input in AI-generated works in order to determine whether copyright protection exists.

| **Category: Creative Intermediaries and Distributors** | | |
|---|---|---|
| **Question Number** | **Questions** | **Answer Options** |
| C.1 | Have you noticed an increase in AI-generated content in recent years? | a. Yes, substantially more<br>b. Yes, some more<br>c. No, none at all<br>d. Unsure<br><br>Please elaborate your answer |
| C.2 | How has the rise of generative AI impacted your decision-making when it comes to funding and supporting creative projects? Do you perceive any risks and benefits where AI-generated content is used? | a. Yes, the rise of generative AI has impacted my decision-making<br>b. No, the rise of generative AI has not impacted my decision-making<br>c. I am indifferent to the impact the rise of generative AI has had on my decision-making<br><br>Please elaborate your answer |
| C.3 | What measures could be in place to directly or indirectly protect your copyright interests in the AI-driven creative landscape? | a. Clear ownership and attribution<br>b. Digital rights management (to control access to AI-generated works)<br>c. Educational initiatives to raise awareness among creators about copyright laws<br>d. Standardising copyright laws in the context of generative AI<br>e. Develop fair compensation models<br>f. Transparency<br>g. Other<br><br>Please elaborate your answer |
| C.4 | Do you expect changes in business models and market structures as a result of AI in the creative industry? If so, what changes do you expect? | a. Yes<br>b. No<br>c. Indifferent |
| C.5 | Should creators disclose whether their content was generated using AI? Why or why not? | a. Yes<br>b. No<br>c. Indifferent |

| | | |
|---|---|---|
| | | Please elaborate your answer |
| C.6 | On a scale from 1 to 5, how confident are you in your ability to identify AI-generated content from solely human-created content?<br><br>1 being the least confident and 5 being the most confident. | |
| C.7 | AI-generated content severely impacts the value of human-made content. Consumers perceive AI generated content of much less value compared to human-generated content. Do you agree with this statement? | a. Yes<br>b. Somewhat<br>c. No<br>d. Indifferent<br><br>Please elaborate your answer |
| C.8 | Do you think AI-generated content will create new job opportunities and skill requirements in creative sectors? | a. Yes, it will introduce a range of new roles demanding unique new skill sets<br>b. Somewhat, some new positions may emerge, and some new skills may be required<br>c. No, job opportunities and skill requirements will remain largely unaffected<br><br>Please elaborate your answer |
| C.9 | Do you think that we possess sufficient resources to tap into these job opportunities and fill the upcoming roles in creative industries? | a. Yes, we are well-equipped to capitalise on the emerging opportunities<br>b. Somewhat, but additional resources or training may be required<br>c. No, we currently lack the resources needed to embrace the new opportunities<br><br>Please elaborate your answer |

| **Category: Creative Industry Professionals and Businesses** | | |
|---|---|---|
| **Question Number** | **Questions** | **Answer Options** |
| D.1 | AI-generated content severely impacts the value of human-made content. Consumers perceive AI generated content of much less value compared to human-generated content. Do you agree with this statement? | a. Yes<br>b. Somewhat<br>c. No<br>d. Indifferent<br><br>Please elaborate your answer |
| D.2 | Do you expect changes in business models and market structures as a result of AI in the creative industry? If so, what changes do you expect? | a. Yes<br>b. No<br>c. Indifferent<br><br>If so, what changes do you expect? |
| D.3 | Have you been presented with challenges in monetising AI-generated content compared to traditional human-created works? | a. Yes<br>b. Somewhat<br>c. No<br><br>Please elaborate your answer |
| D.4 | Do you think AI-generated content will create new job opportunities and skill requirements in creative sectors? | a. Yes, it will introduce a range of new roles demanding unique new skill sets<br>b. Somewhat, some new positions may emerge, and some new skills may be required<br>c. No, job opportunities and skill requirements will remain largely unaffected<br><br>Please elaborate your answer |
| D.5 | Do you think that we possess sufficient resources to tap into these job opportunities and fill the upcoming roles in creative industries? | d. Yes, we are well-equipped to capitalise on the emerging opportunities<br>e. Somewhat, but additional resources or training may be required<br>f. No, we currently lack the resources needed to embrace the new opportunities |

| | | |
|---|---|---|
| | | Please elaborate your answer |
| D.6 | Do you think AI-generated content should be copyright protected? Why or why not? | a. Yes<br>b. No<br>c. Indifferent<br><br>Please elaborate your answer |
| D.7 | Should creators disclose whether their content was generated using AI? Why or why not? | a. Yes<br>b. No<br>c. Indifferent<br><br>Please elaborate your answer |
| D.8* | Based on similar Technology based movements, do you anticipate that dedicated regulations will need to be created, or do existing copyright laws suffice to protect these works? | a. Dedicated regulations are necessary to address the unique challenges posed by AI-generated content<br>b. Existing copyright laws can be adapted to accommodate AI-generated content adequately<br>c. No special regulations are not required; current laws cover AI-generated content effectively<br><br>Please elaborate your answer |

***Introduction Text (Background)**

Works created in a traditional way require human creativity. AI-generated works require an AI-system and prompts, ML algorithms and deep learning techniques. AI system result from human engineering.

Currently, Swiss law does not qualify the author of the AI-code or -programme as the author of the AI-generated work. Their creative decisions are reflected in the AI-code but do not extend to the resulting work, which thus is not their "own intellectual creation".

For work to be afforded copyright protection, there needs to be a human creative input, reflected in the final work. It will have to be assessed to what extent there has been a human input in AI-generated works in order to determine whether copyright protection exists.

| **Category: Industry Organisations and Advocacy Groups** | | |
|---|---|---|
| **Question Number** | **Questions** | **Answer Options** |
| E.1 | Do you expect changes in business models and market structures as a result of AI in the creative industry? If so, what changes do you expect? | a. Yes<br>b. No<br>c. Maybe<br><br>Please elaborate your answer |
| E.2 | Do you think AI-generated content will create new job opportunities and skill requirements in creative sectors? | a. Yes, it will introduce a range of new roles demanding unique new skill sets<br>b. Somewhat, some new positions may emerge, and some new skills may be required<br>c. No, job opportunities and skill requirements will remain largely unaffected<br><br>Please elaborate your answer |
| E.3 | Do you think that we possess sufficient resources to tap into these job opportunities and fill the upcoming roles in creative industries? | a. Yes, we are well-equipped to capitalise on the emerging opportunities<br>b. Somewhat, but additional resources or training may be required<br>c. No, we currently lack the resources needed to embrace the new opportunities<br><br>Please elaborate your answer |
| E.4 | Do you think AI-generated content should be copyright protected? Why or why not? | a. Yes<br>b. No<br>c. Indifferent<br><br>Why or why not? Please elaborate your answer |
| E.5 | Should creators disclose whether their content was generated using AI? Why or why not? | a. Yes<br>b. No<br>c. Indifferent<br><br>Please elaborate your answer |
| E.6 | AI-generated content severely impacts | a. Yes |

| | | |
|---|---|---|
| | the value of human-made content. Consumers perceive AI generated content of much less value compared to human-generated content. Do you agree with this statement? | b. Somewhat<br>c. No<br>d. Indifferent<br><br>Please elaborate your answer |
| E.7 | Do you foresee any new challenges in balancing the protection of creators' rights in the face of generative AI? | a. Yes<br>b. No<br>c. Indifferent<br><br>Please elaborate your answer |
| E.8 | Are there concerns that AI-generated content might hinder or enhance creative expression? | a. AI-generated content **hinders** creative expression<br>b. AI-generated content **enhances** creative expression<br>c. Other<br><br>Please elaborate your answer |

| Category: Academia and Policy Makers | | |
|---|---|---|
| **Question Number** | **Questions** | **Answer Options** |
| F.1 | How might AI impact business models and markets in the creative industry? | a. Significant impact, leading to entirely new business models and market dynamics<br>b. Moderate impact, resulting in some adjustments to existing models<br>c. Minimal impact, with traditional models remaining largely unchanged<br><br>Please elaborate your answer |
| F.2 | Do you think that AI-generated content will create new job opportunities and skill requirements in creative sectors? | a. Yes, it will introduce a range of new roles demanding unique new skill sets<br>b. Somewhat, some new positions may emerge, and some new skills may be required<br>c. No, job opportunities and skill requirements will remain largely unaffected<br><br>Please elaborate your answer |
| F.3 | Do you think that we possess sufficient resources to tap into these job opportunities and fill the upcoming roles in creative industries? | a. Yes, we are well-equipped to capitalise on the emerging opportunities<br>b. Somewhat, but additional resources or training may be required<br>c. No, we currently lack the resources needed to embrace the new opportunities<br><br>Please elaborate your answer |
| F.4 | Do you think AI-generated content should be copyright protected? | a. Yes<br>b. No<br>c. Indifferent<br><br>Please elaborate your answer |
| F.5 | Should creators disclose whether their content was generated using AI? | a. Yes<br>b. No<br>c. Indifferent<br><br>Please elaborate your answer |
| F.6 | Based on similar Technology based movements, do you anticipate that dedicated regulations will need to be created, or do existing copyright laws suffice to effectively protect these works? | a. Dedicated regulations are necessary to address the unique challenges posed by AI-generated content<br>b. Existing copyright laws can be adapted to accommodate AI-generated content adequately |

| | | |
|---|---|---|
| | | c. No special regulations are not required; current laws cover AI-generated content effectively<br><br>Please elaborate your answer |
| F.7 | *If respondent answers "dedicated regulations are necessary or existing copyright laws can be adapted"*<br><br>If you anticipate regulatory changes, what specific changes are likely to be vital for addressing AI-generated content appropriately? | a. Clear guidelines for ownership and attribution of AI-generated works<br>b. Establishment of criteria to differentiate AI-assisted from AI-generated content<br>c. A comprehensive framework to address liability and intellectual property rights<br>d. Other |
| F.8 | How can policymakers balance the encouragement of AI innovation with the protection of copyright holders? | a. Introduce flexible licensing models that reward both creators and AI innovators<br>b. Develop mechanisms to attribute copyright depending on levels of AI and human contribution<br>c. Prioritise copyright holders' interests over AI innovation to prevent exploitation<br>d. Other |
| F.9 | In cases of copyright infringement involving AI-generated content, who should hold the legal responsibility, according to your analysis and understanding? | a. The organisation deploying the AI system<br>b. The individual or team overseeing the AI-generated content<br>c. A combination of both, depending on the level of oversight and control<br>d. Other |

| **Category: Consumers and End Users** | | |
|---|---|---|
| **Question Number** | **Questions** | **Answer Options** |
| G.1 | Have you noticed an increase in AI-generated content in recent years? | a. Some more<br>b. None at all<br>c. Unsure<br><br>Please elaborate your answer |
| G.2 | Do you feel more inclined to create your own work and art with the increase of generative AI tools?<br><br>Please rate the likelihood from a scale from 1 to 10 with 1 being the least inclined and 10 being most inclined. | Please elaborate your answer |
| G.3 | When you use AI, do you believe that the output generated is part of your own intellectual creation? | a. Yes<br>b. Somewhat<br>c. No<br><br>Please elaborate your answer |
| G.4 | If you knew that the AI-generated content that you produce would be copyright protected, would you be incentivised to create work and capitalise on it? | a. Yes<br>b. Somewhat<br>c. No<br>d. Indifferent<br><br>Please elaborate your answer |
| G.5 | AI-generated content severely impacts the value of human-made content. Consumers perceive AI generated content of much less value compared to human-generated content. Do you agree with this statement? | a. Yes<br>b. Somewhat<br>c. No<br>d. Indifferent<br><br>Please elaborate your answer |
| G.6 | Should creators disclose whether their content was generated using AI? | a. Yes<br>b. No |

| | | |
|---|---|---|
| | | c. Indifferent<br><br>Please elaborate your answer |
| G.7 | On a scale from 1 to 5, how confident are you in your ability to identify AI-generated content from solely human-created content?<br><br>1 being the least confident and 5 being the most confident. | |
| G.8 | Would you engage with AI-generated art differently if you knew it was not human-made? | a. Definitely yes<br>b. Probably yes<br>c. No difference<br>d. Probably not<br>e. Definitely not |

## 7.5 Appendix 5: Responses to Question “Why do you not use generative AI?”

- La creatività è insita nell'essere umano e non può essere delegata all'IA
- Der künstlerische kreative Prozess ist ein menschlicher! KI ist zwar beeindruckend, aber es ist keine Kunst, sondern ein technisches Resultat, das mag beeindruckend sein, ist aber keine Kunst.
- Malen geschieht für mich in einem sinnlichen Prozess mit realen Materialien.
- Ist bei meinen Skulpturen unbrauchbar.
- Wir planen 2024 eine KI-Roadmap zu verabschieden. Bisher hatten wir nicht die Ressourcen, uns mit diesem Thema prioritär auseinanderzusetzen.
- Kunst ist immer ein kreativer Prozess. Wir als Künstler erachten unser Resultat als Werk, welches u.a. aus der Performance/Umsetzung heraus entsteht. KI leistet keinen Beitrag dazu, sondern schafft ein eigenes "Werk" welches losgelöst vom kreativen Prozess generiert wird auf Basis bestimmter Parameter. Vieles, was unser Werk beeinflusst, geschieht aber unbewusst und nicht steuerbar, KI führt aktuell noch keinen Mehrwert dazu, sondern generiert immer ein Plagiat und nichts Neues.
- Refus: ces IA ne sont pas pertinentes pour mon travail et représentent un danger pour les créateurices comme moi.
- Bisher keinen Nutzen darin gesehen. Würde aber gerne Nutzen sehen.
- Es mag mich einfach nicht recht interessieren.
- LektorInnen beraten und begleiten Schreibende individuell, projektbezogen und vertraulich.
- Als Konsument möchte ich Kunst von Menschen konsumieren, mich mit den Ideen von Menschen auseinandersetzen und nicht mit immer in irgendeiner Form standardisierten KI-Produkten. Ausserdem bin ich der Überzeugung, dass viele unliebsame Zeiterscheinungen - Misstrauen in Politik, Medien, Wissenschaft, Bubblebildung etc. - durch einen seinem Wesen nach nicht immer identifizierbarem Einsatz von KI massiv befeuert werden.
- Ablehnung der Verwendung von AI für Menschliche Bereiche, extremer Daten- und Energieverbrauch, mangelnder Daten- und Rechtsschutz...
- Grundsätzliche vorläufige Ablehnung für den kreativ literarischen Bereich; als Suchmaschine eventuell okay.
- Ich will selber aktiv suchen und Dinge zusammenstellen.
- Bisher hat es sich nicht aufgedrängt.
- Keine Zeit.
- Weiss zu wenig davon.
- Erste Versuche haben nur unbrauchbare Resultate ergeben. Ich würde eine Verwendung von KI nicht ausschliessen, kann für meine Bedürfnisse aber noch keinen relevanten Nutzen feststellen.
- Es ergab sich bis heute keine Notwenigkeit; das Anstupsen der Such- oder weiterer Programme habe ich bis heute ignoriert.
- Generelle Skepsis gegenüber maschineller Konkurrenz, Fachkräftemangel.
- Der Mensch ist die Quelle, aus der er ohne Hilfe von Computerprogrammen schöpfen und arbeiten soll.
- KI kann nur Wahrscheinlichkeiten berechnen und ist somit unfähig zur Autorschaft.
- Bedenken wegen Urheberrecht.
- Je préfère générer moi-même mes contenus.
- Keine Zeit, keine Dringlichkeit.
- Arbeit mit dem Körper im dreidimensionalen Raum, analog. Es geht ums ganzheitliche Erleben.
- mangelnde Kenntnisse über vertrauenswürdigen Einsatz der KI.
- Machen die Arbeit gern selbst und wollen auch unsere Auftragnehmer (Bsp. Grafiker:innen) weiter beschäftigen.
- Für unser Tätigkeitsgebiet gibt es noch keine etablierten Lösungen.
- Manque d’intérêt.
- Es ist projektiert auf Q1 2024

## 7.6 Appendix 6: Responses to Question “What have you thus far used generative AI for? Other, please specify”.

- Automated chatbot answers
- Hilfe zur Programmierung
- For my other work, which is in chatbots. Our tools use AI for text-based content
- Erstellen von kurzen Textentwürfen für Vorträge, insb. zu Demonstrationszwecken der Leistungsfähigkeit von ChatGPT
- Audiobearbeitung
- Marketing Folien erstellen mit Fokus auf bestmögliche, konzise Terminologie, mittels einer ganzen Teihe von Prompts pro Thema
- Text Ideen
- Text Generierung
- In Form von Plug Ins für die Musikproduktion
- testen, wie musikkomposition mittels ki funktioniert.
- Writing code, organising information, generating creative writing, carrying out customer sentiment analysis, creating flowcharts
- Texte verfassen
- Satire
- Bislang keine Generierung von Bildern, aber Nutzung von KI gestützten Werkzeugen in Photoshop zur Bildretusche
- Avatare für News Sendungen im Unterhaltungsbereich
- Video, Musik
- Retuschen, Bildkorrekturen
- Photoshop. Retusche.
- Design Research
- Spielen. Möglichkeiten des Systems kennenlernen.
- Videokreation
- Pour la tester principalement
- zum Experimentieren mit Sprache, nur so für mich
- Erstellung von Makros für beispielsweise Excel-Anwendungen
- Javascript generieren, Webdesign Probleme lösen.
- Qualitätsforschung Vergleich der Leistungen einzelner Angebote
- Videogeneration, Ordungsassistent, Offerten und Rechnungen, Psychologisches, HR & Leadership
- Erstellen von Entwürfen für Patentbeschreibungen/ansprüchen
- Videogenerierungen
- retouche photographique
- Literarische Texte
- Videos Games
- Générer du code
- Recherche von codes
- Konzept-Design, Previsualisierung von komplexen Szenen die CGI/VFX enthalten.
- Musikbereich
- Verbessern von Texten
- Textentwürfe
- Programmieren
- KI tools welche in Applikationen wie Photshop usw. zur verfügung stehen.
- Datenabgleich in Datenbanken
- technische Anleitungen
- Erstellung von Texten
- PPT machen
- Überarbeitung von Text zur SEO, Vorbereitung von Diskussionen/Verhandlungen: Argumente der Gegenpartei

## 7.7 Appendix 7: Responses to Questions “For which purposes could generative AI be used in your line of business? Other, please specify”.

- Generierung von Möglichkeiten (Mixed Media)
- In keiner
- Non so
- legal matters
- base de données (recherches, triage, enregistrement par réconnaissance audio)
- Je n'en sais rien, puisque je ne l'utilise pas et que ça ne m'intéresse pas.
- für keine Zwecke; jeder Auftrag ist singulär und die Begleitung basiert auf persönlicher Erfahrung
- KI könnte natürlich für alle diese Zwecke eingesetzt werden. Aber ich werde sie nicht einsetzen und ich bin gegen ihren Einsatz. Schon, wenn ich an den ersten Punkt - Zusammenfassungen von Texten - denke, habe ich massive Bedenken wegen des durch den Einsatz von KI entstehenden, meiner Meinung nach falschen Eindrucks von "Objektivität".
- Planung
- Textanalysen
- Gar nicht, ich schreibe meine Bücher selber!!!
- KI kann keine Ideen generieren, sie ist eher generisch im Resultat. Insofern ist sie ein gutes Hilfsmittel für Fleissarbeit. Bei recherchen wäre ich zurückhaltend, weil ich dem Algorithmus nicht vertraue.
- Die KI ist abzulehnen, zu 100%
- Romane schreiben
- Was heisst "könnte"? Natürlich wird es in all diesen Bereichen bereits eingesetzt.
- für keine
- Analysen von Texten
- Beschleunigte Entwürfe
- Pastiche d'une forme de dramaturgie (thriller, détective, comédie romantique), pastiche du style d'un auteur, pastiche d'une dramaturgie (3 actes, 5 actes, fin ouverte, fin bouclée, série bouclée, série ouverte, voyage du héros, quête, épopée etc), façon de parler d'un personnage selon son identité spécifique (dialogues), psychologie d'un personnage selon différent psychanalistes (Jung, Freud, Lacan, etc.)
- Setzen Sie sich bitte mit dem Netzwerk Autorenrechte in Verbindung, die Ihnen eine Matrix auf Anfrage zur Verfügung stellen können, was den Buchsektor betrifft.
- Generieren von Grundrissvarianten innerhalb eines vorgegebenen Rahmens
- Es herrscht nach meinem Wissensstand einige Zurückhaltung wegen Bedenken der Ausspionierung bei der Verwendung von KI-Instrumenten.
- Reconnaissance d'informations
- Redaktion von Texten

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