

**Before the U.S. Copyright Office
Washington, D.C.**

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| In the matter of: |) | |
| |) | |
| Artificial Intelligence and Copyright |) | Docket No. 2023-6 |
| |) | |

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB) hereby submits the following comments in response to the U.S. Copyright Office’s notice of inquiry concerning its study of copyright law and policy issues raised by artificial intelligence (AI) systems.¹ NAB is the nonprofit trade association serving as a leading voice for local television and radio stations and broadcast networks across the nation. We focus on ensuring broadcasters’ ability to grow and innovate to provide their communities with a lifeline during emergencies, vital local news and investigative reporting, and the entertainment they depend on every day.

We appreciate the opportunity to share our views in response to one of the questions raised by the Copyright Office in its NOI.

Question Raised by the U.S. Copyright Office

2. Does the increasing use or distribution of AI-generated material raise any unique issues for your sector or industry as compared to other copyright stakeholders?

Yes. As detailed below, the advancement of generative AI presents potential disruptions to broadcasting and local journalism.² Beyond the increased costs for vetting

¹ Artificial Intelligence and Copyright, 88 Fed. Reg. 59942 (Aug. 30, 2023) (“NOI”).

² NAB’s comments focus on generative AI systems.

stories and footage, as well as the need to protect the image and likeness of our trusted media personalities in balance with the First Amendment, the ingestion of broadcasters' copyrighted news content in AI systems without authorization or compensation risks further diminishing reinvestment in local news. Even as some broadcasters have responsibly embraced this emerging technology for its efficiencies in helping to serve local communities, the level of cost and vigilance to maintain our trusted status continues to rise.

Broadcasters Play a Vital and Unique Role Among All Communications Media

Broadcasters' critical role as first informers, emergency lifelines and entertainment media has never been more important as misinformation runs rampant online. Study after study shows that local broadcasters are the most trusted source of news and information.³ Our investigative reports have received both national and regional awards in journalism for exemplifying the importance and impact of journalism as a service to the community.⁴

Of course, it is broadcasters' unique community connection and role as a lifeline during times of emergency that truly sets us apart from other mediums. Because of the resiliency of the broadcast infrastructure and the power of the airwaves, local broadcast

³ See <https://knightfoundation.org/articles/local-news-most-trusted-in-keeping-americans-informed-about-their-communities/>; [https://www.pewresearch.org/journalism/2019/03/26/nearly-as-many-americans-prefer-to-get-their-local-news-online-as-prefer-the-tv-set/#:~:text=The%20results%20show%20that%20local,popular%20providers%20of%20local%20news](https://www.pewresearch.org/journalism/2019/03/26/nearly-as-many-americans-prefer-to-get-their-local-news-online-as-prefer-the-tv-set/#:~:text=The%20results%20show%20that%20local,popular%20providers%20of%20local%20news;); NAB and Morning Consult quarterly surveys, 2017-2018.

⁴ See <https://www.wtol.com/article/news/special-reports/11-investigates-cedar-point/wtol-11-dark-side-cedar-point-national-murrow-award/512-21cfa4f2-a8cc-4fa7-b30e-2d9b4934af71>; <https://www.kcra.com/amp/article/kcra-3-wins-two-regional-murrow-awards-for-overall-excellence-and-best-newscast/40030214>.

stations are often the only available communications medium during disasters, especially when the internet and cellular wireless networks fail. Consider the wildfires that recently ravaged the island of Maui, destroying homes, lives and businesses and forcing thousands of people to evacuate. For days there was no power, no water and no Internet service. Fiber lines and cell phone towers burned to the ground. Broadcast radio and television remained some of the few dependable sources of communication, and local broadcasters stepped up to deliver a lifeline, providing round-the-clock updates on the fires to keep people safe, as well as information about emergency supplies and shelter.⁵

Broadcasters make all these services freely available over-the-air to our viewers and listeners in every community in America. No subscription or data plan is required to access our unique service.

Broadcasters' investment in news, emergency alerting, local and national entertainment and sports does not, however, exist in a vacuum. Local news production continues to be costly. From 2013 to 2018, TV stations spent nearly a quarter of their budgets on news costs, averaging over \$3 million per year.⁶ The all-news radio station WTOP-FM here in Washington, D.C. spends more than \$12 million a year to run its newsrooms, with more than a third of that expense going to running its digital operation.⁷ And yet, TV and radio stations are producing a record-high amount of local news and maintaining high-quality journalism.⁸

⁵ https://wearebroadcasters.com/americasStories/2023_Maui-Wildfires.asp.

⁶ See NAB Television Financial Reports 2004 to 2019.

⁷ See <https://www.judiciary.senate.gov/imo/media/doc/Oxley%20Testimony.pdf>.

⁸ See <https://www.rtdna.org/news/rtdna-syracuse-survey-local-news-minutes-increase-across-the-board>.

The Ingestion of Broadcasters' Copyrighted Content Into AI Systems Without Compensation or Authorization Raises Concerns

The advent of AI technology brings immense potential for unlocking operational efficiencies in broadcasting when it's used responsibly and its development respects copyright ownership. Radio and television stations can leverage AI for scripting commercials and first drafts of content that can then be reviewed by station personnel, speeding up transcription services and even helping create first drafts of social media posts for on-air talent.

Broadcasters are concerned, however, about the ingestion of their copyrighted works into AI systems without compensation or authorization. Broadcasters' expressive content is particularly valuable for AI ingestion precisely because it is vetted and trusted. If broadcasters are not compensated for use of their valuable, expressive works, they will be less able to invest in local news content creation. Having fewer resources to invest in local news and content would negatively impact the communities served by those stations.

In smaller markets, a local broadcast station is often the only source of local news, and so the online scraping of broadcasters' copyrighted content and ingestion into AI systems is unmistakable. For example, WTAP-TV is a broadcast TV station in Parkersburg, West Virginia owned by Gray Television. When a well-known generative AI system was recently prompted to provide the latest "news" in Parkersburg, the AI system generated a few news "stories" copied nearly word for word from the WTAP-TV's website. Neither Gray nor WTAP-TV had granted permission for the station's content to be ingested and neither received any compensation. This example also

illustrates how AI-generated “news” has the potential to substitute for and supplant the market for copyrighted broadcast content on which the AI systems have been trained.

The Use of AI Systems to Distort Broadcasters’ Copyrighted Content and Spread Misinformation Raises Concerns

As misinformation and disinformation thrive online, local television and radio stations have become an even more critical source of trusted news for Americans. The lack of attribution and sourcing in AI-generated outputs makes it increasingly difficult to identify and distinguish legitimate, copyrighted broadcast content, from inaccurate, unvetted content being generated by AI. Generative AI systems also increase the likelihood of legitimate, copyrighted broadcast content being ingested and then mixed with unverified and inaccurate third-party content.

The recent explosion of generative AI has also raised concerns as users create images, video, and audio that replace a person’s likeness convincingly with that of another. There have already been examples of broadcast content being used to spread misinformation. For example, a user distorted a video clip of a routine discussion between two broadcast TV anchors and generated a video consisting of a hateful, racist and anti-Semitic rant. After the doctored video had been posted on two well-known online platforms, the station’s owner filed notices under the Digital Millennium Copyright Act (DMCA) to have the content removed as a violation of the station’s copyright and in violation of the platforms’ policies on hate speech. Although both online platforms initially removed the doctored video, one of the platforms reinstated it after the individual who had posted the material appealed the DMCA takedown notice. The broadcaster has now been forced to sue in federal court to have the video taken down.

Conclusion

America's broadcasters are extremely proud of the role we play in serving communities across the United States. We applaud the Copyright Office's attention to the potential impacts of AI on copyright and the unique impact AI presents to broadcasters compared to other copyright stakeholders.

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Respectfully submitted,

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