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Assignment 2

## Ethics in AI

AI's meteoric rise has ushered in unprecedented change, leaving many struggling to keep pace with this breakneck rhythm. And central to AI's continued reign is an existential question with legal, moral, and ethical ramifications: what data can be rightfully used to train AI models? This discourse falls neatly into the ongoing battle between social responsibility to users and operators' legal liability that has waged for years as field experts opine. A look into Adobe's management of its flagship Creative Cloud platform provides important insight for this discussion.

Central to Adobe's decisions, though, are the case's underlying truths. AI's boom unveiled a black-box problem: understanding and tweaking internal decision-making processes is impossible (Blouin 2023), meaning the only proven method to minimize bias and overcome inaccuracy is to provide vast amounts of robust, representative training data. In the case of Creative Cloud, Adobe has been quietly analyzing users' cloud-saved images "to develop and improve [its] products and services" (Adobe 2024), which include generative and assistive AI tools for software like Photoshop, which holds a definitionally monopolistic market share of approximately 80% in image-manipulation (Vailshery 2023). While these terms allow such behavior of the €70-monthly service, any claim that the millions of subscribers read the 11,000+ word document (Adobe 2024) outlining this practice is dubious at best. Though all art works are implicitly creator copyrighted in the US, Adobe's practice has received tacit justification under *fair use* regulation per *New York Times v. OpenAI* (Pope 2024), a foundation of legal precedent. Notwithstanding, Adobe found itself amid turmoil in June 2024 (Ng 2024), and faces now an important decision: what is the ethical path forward? Investigation with central concepts, namely users' rights, codes of ethics, and theories of moral practice, generates several possibilities.

Adobe, the proprietor of Creative Cloud, could opt for inactivity and continue harvesting user data for training purposes. Likely the worst action, it violates key ethical theories: under the respect-for-persons approach, it fails the golden rule test—that is to say, Adobe executives would likely not appreciate their work being utilized for others' profit without consent if they were artists—, it breaks the ethical codes' *Act with Integrity* principle, fundamentally undermining any honesty between the company and its userbase over equitable data collection and usage, and it violates several of Gewirth's higher-order rights including that not to be deceived—quiet legal changes to grant Adobe free reign are deceptive—, and the right not to be cheated—Adobe offered creators no compensation for using copyrighted material to develop AI models that pose material risk to de-value that very art long-term. This choice also implies significant negative press, for the story already broke across the internet which generated the hubbub that landed Adobe at this crossroads initially.

Conversely, the AI program could cease altogether. Such action minimizes brand damage and may even bolster public trust; although, termination comes at the cost of a potentially

lucrative revenue stream for Adobe. And, despite any unethical practices used in development, the final product, a robust creative AI toolset, would serve to augment artists' abilities and lower the barrier of entry for content creation; thus, a wholesale cancellation could prove detrimental to subscribers. From a utilitarian standpoint, this ultimately does not deliver the most good to the most people.

All things considered, the most ethical choice is likely a policy of real transparency: continue the program, but clearly indicate subscriber data practices, with an easy and explicit "opt-in" rather than a hard-to-reach "opt-out." This choice upholds users' rights and inherently enforces the principle of openness and honesty as proposed by Luegenbiehl (Kelly 2019) and supported by good virtue. Still, the choice could harm Adobe's business prospects by forfeiting training data potentially crucial to the continued viability of its AI services. Although, if a product can only be developed unethically, there is a strong argument that said product should not exist in the first place. Nonetheless, corporate and customer interests diverge here, so compromise is expected. This creative middle-way solution paves a path for both ethical practice by addressing Adobe's social responsibility to its customers and the continued operation of its AIs through legal conformance to the latest regulation, like GDPR, by explicit user consent.

Adobe seems to partially agree. Despite leaving ambiguous legal speak unchanged—permitting user data for improvement purposes (Adobe 2024)—, it also expressly forbid such content for training and elected to offer users more granular control over their data. While these claims' credibility likely hinges upon upcoming legal settlements, this case is one closed. Adobe, and the industry at large, have learned a valuable lesson in balancing users' rights with business liabilities. Knowing training AIs with copyrighted material is legal, vendors' other burning questions remain yet unanswered, like *when can AI go unsupervised?*

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