**Written evidence submitted by the National Union of Journalists on the Data (Use and Access) Bill.**

**February 2025**

* The National Union of Journalists (NUJ) is the voice for journalism and journalists in the UK and Ireland. It was founded in 1907 and has more than 22,000 members working in broadcasting, newspapers, news agencies, magazines, book publishing, public relations, photography, videography and digital media. The NUJ is not affiliated to any political party.
* The union welcomes the opportunity to submit evidence to the committee, in particular, to share concerns on the protection of journalistic material and sources, and on strengthened transparency requirements for developers of artificial intelligence technologies.

**Automated decision making**

1. We are concerned Clause 80 of the Bill removes the right of individuals not to be subjected to solely automated decision-making processing as outlined in Article 22 of the General Data Protection Regulation (GDPR) unless processing involves special category data. We understand journalists who do not give their explicit consent can have their data processed in ADM unless it falls within the scope of limited criteria; safeguards proposed do not restore protections as outlined in Article 22. This position is a weakening of existing rights granted by the UK GDPR that enshrines the right to no automated processing that has “legal or similarly significant effects on them”.
2. The NUJ notes that ADM lacks meaningful human involvement in the process, with decisions often made using algorithms. Decisions, however, can still have a significant impact on people. As employers and companies explore the use of AI technologies, any weaking of data protection legislation is cause for concern.
3. The bill removes the requirement for law enforcement to record the justification for why personal data has been processed in automated decision making. The union is concerned Clause 82’s amendment to section 62 of the Data Protection Act 2018 reduces necessary accountability for police forces. The Act states:

(1) A controller (or, where personal data is processed on behalf of the controller by processor, the processor) must keep logs for at least the following processing operations in automated processing systems— (a) collection; (b) alteration; (c) consultation; (d) disclosure (including transfers); (e) combination; (f) erasure.

(2)The logs of consultation must make it possible to establish:

(a)**the justification for**, and date and time of, the consultation, and

(b)so far as possible, the identity of the person who consulted the data.

(3)The logs of disclosure must make it possible to establish—

(a)**the justification for**, and date and time of, the disclosure, and

(b)so far as possible—

(i)the identity of the person who disclosed the data, and

(ii)the identity of the recipients of the data.

1. The NUJ is urging a reversal of this proposal for the risks it poses to source protection. If police forces are not required by law to record their reasons, there is a greater risk of reduced transparency and accountability on why personal data is being used in this way. It is important individuals do not access personal logs without adequate reasons and the removal of the need to record justification is of deep concern. We urge government to drop clause 82.
2. Under proposals in the Bill, there is greater scope for data sharing to occur. The NUJ stresses that there must be robust reasons for doing so, and that safeguards for confidential journalistic material must be adhered to. By the nature of their work, journalists place importance on their ability to ensure data is protected and secure, we urge safeguards to ensure journalists and their sources are protected.

**Artificial intelligence**

1. The union recognises the role data has in informing artificial intelligence technologies and urges government action to ensure data protection legislation is robust, avoiding reduced safeguards that could also impact the safe development of AI. The pursuit of innovation must not be at the expense of the public’s rights even as the UK government seeks AI opportunities for economic growth.
2. The NUJ notes that some technology firms are linking their requests for a text and data mining exception to its ability to boost growth and innovation in the UK. We recognise the importance of a thriving economy but believe respect for UK copyright law must remain, and furthermore, strengthened. There was staunch opposition from across the creative industries to government’s Copyright and Artificial Intelligence consultation launched in December 2024, including from organisations whose members’ data has unlawfully been used to train systems.
3. The NUJ strongly opposes the introduction of a text and data mining except for commercial purposes.
4. If an Opt-out mechanism is pursued despite opposition, it must allow journalists the genuine choice to oppose the use of their data and require firms to disclose in detail, information about their crawlers including their purpose. The NUJ would expect this information to be made publicly available and updated, and crawlers must also disclose detail on content they have scraped historically. The NUJ’s membership includes photographers and the union has seen no practical, technical solution that would allow photographers to opt-out of their images being used. Doing so for each image would be an arduous and almost impossible task.
5. The House of Lords’ Communications and Digital Committee in its November 2024 report on the future of news said: ***Any proposal for a new text and data mining regime must include transparency mechanisms that enable rightsholders to check whether their data has been used. It must offer technical enforceability that goes beyond the likes of robots.txt indicators, which remain inadequate.***
6. Baroness Kidron’s amendments to the Data Use and Access Bill focused on copyright and increased transparency from AI developers passed at Report stage, demonstrating significant support for strengthened clauses. The NUJ has stressed there must be greater transparency from developers on the sources of their training data and supports clauses 134 –138 of the Bill as presented to the Commons, clarifying among issues, the requirement for web-crawlers and other “data gatherers” to observe UK copyright law. Further detail can be found in Annex 1 at the end of this document.

**Secretary of State powers**

1. The NUJ is concerned clauses granting the Secretary of State powers to amend legislation through Statutory Instruments will mean less scrutiny of proposals. As currently outlined, the Secretary of State will have powers to determine new “recognised legitimate interests”, thus stating new reasons for which legal processing can occur.

They will also be able to amend what is considered “special categories” data as outlined in clause 74. The NUJ argues strongly that parliamentary scrutiny should be permitted for such decision making, avoiding Ministers taking action to amend legislation in this way.

1. We welcome a reversal to previous proposals in the Data protection and Digital Information Bill that afforded data controllers wider discretion on their decision making about whether to decline requests from data subjects, by changing the threshold used from “manifestly unfounded or excessive” to “vexatious or excessive”. This change would have meant journalists could see their subject access requests increasingly declined as a result. Journalists’ ability to request data held about themselves, has directly informed public interest journalism, and the union opposed the changes likely to increase difficulty in obtaining information.

**Annex 1**

1. The new clauses inserted after 132 include a focus on countering the widespread theft of IP by AI companies who use it as raw material for their products. <https://bills.parliament.uk/bills/3825/stages/19404/amendments/10017746>
2. A requirement on the SoS to set out strict transparency requirements for web crawlers so that it is possible for IP holders to identify the owners of webcrawlers.

<https://bills.parliament.uk/bills/3825/stages/19404/amendments/10017765>

1. A requirement for the SoS to set out transparency requirements that would allow copyright holders to identify when and from where their work has been taken. This is especially important for NUJ members including photojournalists who will otherwise have a huge burden placed upon them. We support text below in particular, requiring operators of webcrawlers and AI developers to disclose:

*the text and data used for the pre-training, training and fine-tuning, including the type and provenance of the text and data and the means by which it was obtained,*

*(c)information that can be used to identify individual works, and*

*(d)the timeframe of data collection.*

<https://bills.parliament.uk/bills/3825/stages/19404/amendments/10017758>

1. An enforcement procedure in line with the Data Protection Act 2018.

<https://bills.parliament.uk/bills/3825/stages/19404/amendments/10017796>

1. A requirement for the SoS to conduct a review of the technical solutions that may be adopted by copyright owners and by the operators of web crawlers and general-purpose artificial intelligence (AI) models whose services have links. <https://bills.parliament.uk/bills/3825/stages/19404/amendments/10017787>