Digitisation, Archiving and Online Making Available of European Cultural Heritage

Proposals for a successful partnership

1. **Dialogue: an absolute requirement for the secure use of this "shared heritage"**
   For anyone who has looked seriously at the major projects of digitisation and making available online, it is a fact, which the sterile controversies of recent years has sometimes obscured: public cultural and scientific institutions on the one hand and authors and other right holders on the other (among which publishers, producers and distributors), individually or together through their management companies, share, according to different procedures, the responsibility of conserving and making available to the public a heritage of exceptional richness.
   These multiple actors have, however, in many countries, not yet really taken the time to define how, jointly, to legally manage access to cultural heritage.

   The concept of **shared responsibility** is essential to building a fruitful dialogue. Each player can and should bring forward its specificities and its legitimate interests and be heard by others.

   There is no universal, legal, economic or technical solution to this multi-faceted challenge. Defining the models for a long-term and balanced partnership adapted to each promotional activity for this "shared heritage" requires dialogue between all the parties involved.

   This work needs to be carried out very soon particularly in certain sectors which are quickly moving to new "production/distribution/electronic viewing" methods, which are vulnerable to the current problems of non-respect of authors' rights in digital media.

2. **The natural position of creators and other right holders**
   Creators and right holders want to be included in the digitisation/indexation process and the online promotion of the digitised works (if applicable). This is out of respect for their moral and economic rights, but also in order to be able to bring **their own added value** to the actions, in collaboration with the other parties involved.

3. **There is no such thing as a free lunch!**
   Regardless of copyright, free access to selected works on the internet is an illusion. Even if the democratisation of access to works remains a necessary political objective, it is good for the public to be aware of the real costs associated with such a service.
   The models planned by European authorities should take respect for the authors and all other professionals involved into account.

4. **Multiple platforms that respect copyright**
Alongside legal commercial access platforms (the incomes of which come directly from selling digital works and/or selling targeted advertising space around "free" cultural content, or even derivative products), it is important to increase the resources devoted to the development of other public legal platforms, such as the Europeana digital library, by improving the definition of their missions and regularly evaluating the progress made in their objectives.
These public platforms must be established through deeper partnership with the authors and editors, acting alone or collectively.
Public institutions must ensure that all platforms comply with the fundamental principles of intellectual property and in particular ensure that creators and other right holders are properly remunerated.

5. **Archiving and making available online: a complicated process which calls for appropriate responses**.
Making heritage works available online is a more complicated process than people imagine. It involves digitising reproductions, saving them in various computer formats, collecting scientifically validated metadata, identifying possible right holders, archiving and storing the files, designing a well-founded database and developing consistent search criteria, not to mention placing them online and developing viewing platforms.

Making digitalised works available online cannot be understood in just one way: it calls for appropriate responses (technical, economic and legal) which vary slightly according to:
- the type of work (texts, static images, animated images, audio),
- the type of use intended,
- the parties and sectors involved and
- the target audience.

It is important to plan out each of these steps (and their cost) in the projects studied so that these actions make sense for the target audiences: production types, economic models, funding sources, legal obstacles, implementation schedules, collaboration models.

6. **The digitisation and making available online of Europe's cultural heritage requires a strong creative process**
Experience of recent years proves that a simple placing online of cultural heritage, or representations, does not generate, and is insufficient to generate public interest. The Internet is neither a museum nor a documentation centre.
The process of posting content online has to be creative in itself, its interest highlighted, based on the creation of metadata and increasingly sophisticated links.
To exclude authors / publishers / producers / broadcasters of these projects would not take due account of their capacities and role, and probably condemn such projects to failure in many cases. The digitisation of heritage must open multiple spaces for creative contemporary artists.

7. **Defining a framework for Public-Private Partnerships**

All kinds of public-private partnerships are possible, even if private operators will not meet all the needs of cultural institutions. To avoid abuse and oversee best practices, it is important that the European Union defines a common framework, respectful of the expectations of all the stakeholders.

8. **No change necessary in the European legal framework**

It is not necessary to amend the European legislation insofar as the current framework allows for different solutions, appropriate to national legislation, including the extended collective license (providing a mechanism to opt-out) and other innovative arrangements already in place in several countries.

Regarding orphan works, the introduction of a EU wide system of mutual recognition of the various national statutes would be likely to promote strong partnerships for non-commercial projects between non-profit heritage institutions and rights holders' organizations involved. Such mutual recognition could only be gained through a diligent search, as defined by the "Memorandum of Understanding" of the High-Level-Group and through mobilizing pan-European specialized tools, such as ARROW.

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