

Kluwer Copyright Blog

Commission Recommendation on the Digitisation and Online Accessibility of Cultural Material and Digital Preservation

Christina Angelopoulos (CIPIL, University of Cambridge) · Wednesday, November 23rd, 2011

On the 28 of October the European Commission adopted a [Recommendation on the digitisation and online accessibility of cultural material and digital preservation](#). The Recommendation follows up on a similar Recommendation from 2006, updating for new developments such as the launch in 2008 of [Europeana](#) and the adoption of the Commission's proposal for a Directive on orphan works in May 2011. The Recommendation acknowledges the importance of digitisation for making Europe's cultural productions more widely available and thereby boosting the growth of Europe's creative industries. It accordingly challenges Member States to step up their digitisation efforts.

On an organisational level, the Recommendation invites Member States to set clear and quantitative targets for the digitisation of cultural material. To help manage the high costs of digitisation, public/private partnerships should be encouraged. The EU Structural Funds may also be used for this purpose.

In alignment with the conclusions of the [“New Renaissance” Report](#) by the Comité des Sages high level reflection group and the [Communia Final Report](#) and [Policy Recommendations](#), the Commission opposes attempts to re-appropriate public domain material: according to Article 5 of the Recommendation, material in the public domain should remain in the public domain after digitisation. Intrusive watermarks and other visual protection measures that reduce usability of digitised public domain material are also discouraged. Such concerns are caused by the tendency of many cultural institutions across Europe, not always with a solid legal basis, to assert new rights created with digitisation over public domain works, thus impeding their re-use.

With regard to the digitisation of in-copyright works, the Commission encourages the rapid and correct implementation of the Directive on orphan works as soon as that is adopted. It also promotes the development of databases of rights information such as [ARROW](#) and the creation of the right legal framework to allow for licensing mechanisms that enable the large scale digitisation and cross-border accessibility of out-of-commerce works. Collection and cross-border coordinated management of rights information should combat the problem of orphan works by helping to uncover their right-holders, while also helping to enrich the public domain by providing the information necessary to establish the expiry of copyrights.

Finally, the Recommendation also addresses digital preservation. As the Recitals point out, digital material has to be maintained otherwise files may become unreadable over time. Currently, no clear and comprehensive policies are in place on the preservation of digital content. Member States

are therefore invited to reinforce national schemes for the long-term preservation of digital material and exchange information with each other on strategies and action plans. Legal deposit is suggested as a way of minimising the burden of collection for content holders. Other techniques for acquiring digital versions of works, such as web-harvesting, are also mentioned.

The resultant digitised material, whether in-copyright or in the public domain, should be made available through Europeana, the European digital library. Although already home to over 19 million digitised objects, the ultimate success of Europeana will depend on its systematic enrichment with digital content. The Recommendation sets a target of 30 million digitised objects in Europeana by 2015, including all public domain masterpieces. The free availability of metadata (descriptions of works) produced by cultural institutions should also be ensured.

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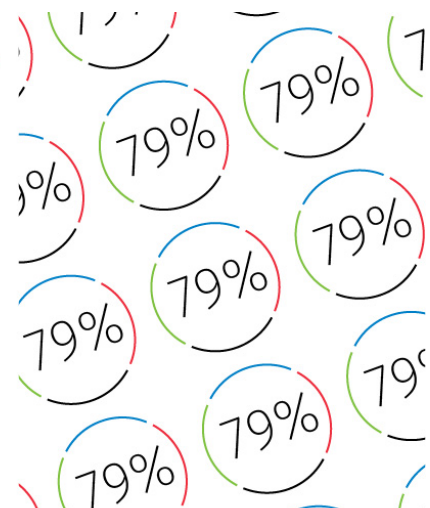
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