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Best Practices
for Access to Images:
Recommendations for Scholarly Use and Publishing

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Publishing practices in the sciences and the humanities are rapidly diverging. The sciences are increasingly moving toward forms of international e-publishing, leaving behind the world of traditional print publications. At present, the humanities are ill-prepared to adopt new publishing practices championed by the sciences, in spite of the potential these new practices offer for innovative scholarly work in the humanities and sciences alike.

Scholars in the humanities, especially those concerned with images, face a bewildering array of restrictions. A confusing patchwork of policies regarding access to images, image reproduction, and cultural heritage citation is hindering new research and publication in the humanities.

For a variety of reasons, including financial considerations, many museums, libraries, and image repositories restrict the use of their digital image collections. Curators also fear false attribution if they allow open access to their image and cultural heritage repositories.

To promote creative scholarship in the humanities and to foster a deeper understanding of cultural heritage, curators and scholars must work together in new ways. Put simply, what's needed is a policy of open access to visual sources not covered by copyright.

The following recommendations address challenges faced by researchers and curators of image repositories. The aim of this document is to establish a

Network of Trust in the Digital Age

<u>**Goals**</u>

1. Clarify terms of copyright, intellectual property, and physical ownership rights concerning objects in the public domain

2. Provide assistance to scholars negotiating access to digital cultural heritage

3. Explain scholars' needs to museums, libraries, and other repositories

4. Explore how institutions may allow scholars greater access to images

5. Define scholars' responsibilities vis-à-vis cultural heritage repositories

6. Establish practices that enable institutions, scholars, and publishers to form mutually beneficial relationships

<u>Recommendations</u>

Respecting Physical and Intellectual Property

All countries distinguish between the physical property of an object (image, text, or art work) and intellectual property. Only the latter is protected by copyright. Rights of physical property are regulated by a contract between the owner and the user. Ownership rights should not be confused with intellectual property rights, even when the object in question is unique.

Access to unique historic objects, images, or texts – cultural heritage – is only rarely a copyright issue. Access to cultural heritage is first and foremost a contractual matter. As such, access to cultural heritage is inherently negotiable. Once a contract is signed, scholars must abide by the terms of use stipulated in the contract. To obtain access to collections or individual objects within collections, scholars frequently sign agreements containing clauses stipulating the terms of access. Prior to signing any access agreement, scholars must feel certain that access – that is, precisely how they will be allowed to use the material they are consulting – has been carefully defined.

For Curators of Museums, Libraries, and Image Repositories

Museums, libraries, collections, and other private owners of cultural heritage objects must also respect the difference between the intellectual property and the physical property of the objects they possess. Repositories should define access to cultural heritage objects solely as owners, not as copyright holders. Owners, for their part, should not restrict the public domain. Instead, they should recognize that they, too, as owners of objects in the public domain,

exercise a unique responsibility for cultural heritage. Owners should be aware that scholarly publishing safeguards against misuse and/or misappropriation of objects. Through cooperation with humanities scholars, the holders of objects stand to gain recognition as custodians of culture.

Museums or collections should seek to cooperate with non-commercial image archives specializing in open access for educational purposes.

If museums, libraries, or other repositories outsource digitization to private companies, their contracts with vendors should stipulate the terms of scholarly use. As regards scholarly access, museums, libraries, and image repositories should negotiate reduced fees, or waive fees altogether, for scholars.

Institutions should consider distinguishing between academic or commercial use by some standard other than print run: the size of a print run alone cannot be the measure of whether a publication qualifies as scholarly or not. Rather than counting copies, they should waive the fees often charged to academic and not-for-profit publishers. Rules for the scholarly use of objects should apply equally to both print and online publications.

Scholars require access to all information about reproduction rights and permissions – particularly if the repository in question has outsourced the management of reproduction rights to a third party.

Scholars need high resolution files, for work both on- and offline.

For Scholars

Scholars should be aware that preconditions to the use and re-use of objects in the public domain are negotiable. Restrictions to cultural heritage items derive from ownership rights, not intellectual copyright. Access to objects, images, or texts is defined by individual owners' decisions and individual contracts. Scholars must respect the fact that the owners of objects incur costs in making digital media available to humanities researchers. Researchers must also be prepared to share in the cost of digitization, e.g., to pay reasonable fees for the media they need to complete their studies.

Scholars have an obligation to attribute provenance as accurately as possible. The scholar's responsibility does not end with the intellectual property of an object. Scholars must also behave responsibly toward the owners of the physical objects, images, or text they use. Correct attribution is part of each scholar's contribution to a relationship based on trust and mutual benefit.