PSI re-use in the cultural sector

final report
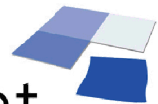
Genevieve Clapton
Dr Max Hammond
Nick Poole

curtis+cartwright

Collections Trust

ITHAKA S+R

Document history

Version	Date	Description of Revision
0.1	5 April 2011	Draft for internal use based on draft report CC462D010-0.1
0.2	11 April 2011	Revised draft for internal use
0.3	14 April 2011	Revised draft with review comments
0.4	15 April 2011	Final draft
1.0	21 April 2011	Release version
1.1	10 May 2011	Final version including feedback from Commission

Executive summary

1   Curtis+Cartwright Consulting Limited (with Ithaka S+R and the Collections Trust) was engaged by the European Commission, under a contract dated 10 December 2010, to investigate the extent, type, and financial significance of re-use of Public Sector Information (PSI) by cultural institutions in Europe. This is an input to a review of directive 2003/98/EC.

2   The objectives of the study were to:

    – estimate the importance of re-use in terms of revenues for cultural institutions;
    – estimate trends in the development of the re-use market for cultural material.

3   This is the final report, setting out the findings from the study.

Methodology

4   Initially, six member states were selected for investigation to ensure a range of views: France, Hungary, The Netherlands, Romania, Sweden and The United Kingdom. From each country, a range of cultural institutions was invited to take part. These institutions received a survey instrument in two parts: an introductory survey addressed to the institution's director, which was then followed up with a detailed survey addressed to an individual nominated by the director. To gain a broader range of views, surveys were also distributed to an additional group of cultural institutions (both within the original six countries, and in other countries in the European Union).

5   Responses were analysed to provide specific information meeting the objectives of this study. The small size of the sample population, combined with the great diversity of the cultural sector in Europe precludes broad generalisation, so applying statistical approaches would be unhelpful in understanding the data generated. The analysis has therefore focused on understanding the patterns of re-use from a qualitative perspective, rather than coming to overall values or estimates of the size of the re-use market across Europe.

6   This approach has proven effective for developing an understanding of the range of activities undertaken by cultural institutions, and in identifying the financial importance of re-use.

Current importance of re-use

7   Very few institutions are dependent on the income[1] they receive from re-use to enable them to undertake their public task. However, the income that they receive from re-use is in many cases essential to enable future re-use and development of services.

8   The approach that institutions have taken appears to depend on a very wide range of intrinsic and extrinsic factors – from the strategy of the state they are located in, through the nature of the collections, right down to the personalities of the people involved at an institution. It is important to bear in mind that a sample of this size cannot be representative of such a diverse community. These results should not be seen as statistically representative or significant; rather, they provide a first empirical view of possible trends and practices concerning re-use of cultural materials in several European Union member states.

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[1]   Within this document, "income" refers to gross income/revenue, unless otherwise qualified.

9   Most organisations sampled are already re-using material in some way. Institutions can be qualitatively grouped according to their *approach to re-use* (see §3.2 for more detail):

Group	Name	Approach to re-use	Financial value
Group 0	No re-use	Institutions that undertake no re-use activities.	None.
Group 1	Public Duty	Institutions that either do not charge for re-use of their content, or charge cost recovery only.	Typically very low, but for some institutions cost recovery may make up a significant proportion of their gross income.
Group 2	Pocket Money	Institutions that consider re-use a commercial opportunity and earn some income from re-use activity, but this is on a small-scale and often *ad hoc* basis.	This income is typically < 1% of the organisation's gross income, and is in the range of thousands to tens of thousands of €.
Group 3	Big Plans	Institutions that view re-use as a significant element of their operations.	This income is typically 2-10% of the organisation's gross income, and is in the range of hundreds of thousands to millions of €.

10   Based on the survey respondents, the institutions with the highest absolute income from re-use are typically those in Group 3. These are mostly national institutions that have been conducting chargeable re-use activities for many years (in one case, since 1765!). This is unsurprising, given that they have the largest and most notable collections, and they have the administrative capability to manage the exploitation of this material. These institutions are also most likely to undertake third-party re-use, by licensing entire collections to an external organisation that undertakes digitisation and then generates income. This income is then used to fund the staff time and effort that is required to prepare further collections for digitisation and re-use.

11   However, a similar situation also occurs where several small organisations may share the overhead of digitising material or making material available for re-use. For example, one group of small museums are working together to take digital images of their artefacts. The photographer is employed with income generated from the sale of these images (and postcards printed from them). Without the income from the re-use, it would not be possible to employ the photographer, so the digitised material would not exist to be re-used.

12   To illustrate the range of income generated by re-use, the following table sets out the absolute and relative importance of re-use for the national libraries that supported this work (figures in € are rounded). This demonstrates how even similar organisations can have very different approaches to, and financial benefits from, re-use (the picture is similar for other types of institution).

Library	Gross income	Earned income	Re-use income	Re-use as % of gross income	3rd-party re-use income	3rd-party re-use as % of total re-use
A	€195 M	€9 M	€400 K	0.2%	€300 K	80%
B	€160 M	€40 M	€5 M	3.2%	€1 M	20%
C	€55 M	€0.8 K	€0.1 K	0.0%	€0	–
D	€35 M	€3 M	€0	–	€0	–
E	€30 M	€4 M	€500 K	2.0%	€50 K	10%

13   The institution (in the overall sample) with the highest income from re-use generated ~€10 M in 2009, representing 7.1% of total income. The institution with the highest proportion of income from re-use generated ~€6 M, representing 11.1% of total income.

Trends in re-use

14   Of the organisations reporting financial data for this report, between 2005 and 2009 some showed growth in revenue from re-use activities, while others showed a decline. As a proportion of overall income, however, re-use remained approximately level (<1% change) for all of those institutions that reported to us.

15   Many respondents stressed that they were trying to balance their public task of disseminating information with their requirement to generate income to fund future development of services. As expected, many new projects have been started since 2005, and many more are currently being planned. Many of these are not yet generating income and, indeed, many are not intended to generate income. It is clear, however, that institutions are actively seeking out opportunities to re-use their content regardless of whether they are intending to generate income from this re-use.

16   Many respondents expressed in qualitative sections of the survey a sense that digitisation of content was synonymous with enabling re-use. Respondents have generally expressed the view that material must be digitised to reach as wide an audience as possible. Nonetheless, there are good examples of "analogue" re-use, such as reproduction fees, selling prints, catalogues *etc*.

17   There was a general view that the cost and effort of digitisation was the major factor limiting re-use of their material. Depending on the capability and nature of the organisation, this typically either has prevented the re-use of the material, or has led to third-party re-use.

18   Although not an emerging type of re-use, a range of respondents expressed their current plans as to do "more of the same" – digitise more collections and more types of collections.

Compatibility with PSI directive

19   At this time, cultural institutions are not required to meet the terms of directive 2003/98/EC, and are correspondingly unlikely to have structured their processes around meeting its specific requirements. As such, in consultation with the Commission, we have selected indicators listed below that describe conformance with the *principles* of the directive rather than the detailed obligations.

20   Cultural institutions hold a very wide variety of materials, and operate within very different regulatory and cultural environments and their approaches to these aspects are similarly diverse.

Discoverability

21   Cataloguing and discoverability of material is an established challenge for the cultural sector. All institutions recognise that it is beneficial (and in fact necessary) for potential users and re-users to identify appropriate resources. Most respondents have physical catalogues or staff that patrons can approach to find holdings, but a smaller number of respondent institutions are able to make a majority of their holdings findable through electronic catalogues or an institutional website.

22   In some cases, discoverability of resources is restricted by an organisation's income-generating activities. For example, in libraries, the metadata for their holdings is a tool for discoverability, but for some national libraries, this metadata is itself a product that they sell. A library that sells

its metadata by definition places greater restrictions on how that metadata is released and used; the re-users may provide new routes to the library's content, but they may not – it depends greatly on the uses that the metadata is put to.

Availability

23   The IPR status of holdings provides a challenge that can limit the availability of collections for re-use. In addition to the IP presenting a barrier to re-use, some organisations who provided qualitative input to this study are deeply concerned about the administrative overhead in managing requests for re-use that require rights clearance activities.

Charging

24   The approaches that cultural institutions take to charging vary, often driven by mission. For example, two national libraries charge for re-use of their bibliographic metadata, whereas another two do not.

25   Those institutions that hold material with well-developed commercial markets – such as images and archives of use in genealogy – are correspondingly more likely to adopt commercial pricing models.

Licensing

26   Many respondents appear to have carefully considered the type of exclusivity in licences they offer, and are able to justify their choices. Exclusivity is concentrated in the larger organisations, which also have the skill and administrative resource to manage the negotiations and administration required to establish such relationships.

Process

27   Most organisations in this study report that they respond to requests for re-use in a timely manner. Further discussion with some of the respondents highlighted that although day-to-day re-use requests could be met within 20 days, more complex types of re-use such as developing new services, negotiating with delivery partners, *etc*, often took much longer. Some organisations initiated the process of re-use by tendering a contract, which was then subject to EU procurement processes and the associated timelines.

Views and concerns

28   The collection of attitudinal data was not a principal aim of this project. However, we gave respondents the opportunity to share their views and concerns, and some common issues were identified.

Poor understanding of the PSI directive

29   Many respondents were not familiar with the directive 2003/98/EC, which is understandable given that it does not currently apply to them. There is significant confusion regarding the implications of a loss of their current exemption.

Applicability of the PSI directive to the cultural sector

30   Several respondents noted that the PSI directive, as currently drafted, would be difficult to apply to the cultural sector, due to definitions used within the directive, and the greater maturity of markets for cultural material compared to other PSI.

Concern about reduction of income

31   Given the current financial climate in particular, many respondents were deeply concerned about the potential impact on their income that inclusion within the directive would cause.

Concern over administrative overhead

32   A range of institutions of all sizes expressed concerns regarding the administrative burden that inclusion within the directive would bring. These concerns particularly related to the effort required to clear Intellectual Property Rights, the effort required to negotiate complex third-party re-uses, and a concern about receiving a large number of requests from members of the public.

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1 Introduction

1.1 General

1.1.1 Curtis+Cartwright Consulting Limited (with Ithaka S+R and the Collections Trust) has been engaged by the European Commission, under a contract dated 10 December 2010, to investigate the extent, type, and financial significance of re-use of Public Sector Information (PSI) by cultural institutions in Europe. The opinions expressed in this study are those of the authors and do not necessarily reflect the views of the European Commission.

1.1.2 This document presents findings from that study. This version of the document (1.1) is the final, release version.

1.2 Objectives

1.2.1 The objectives of the study are to:

– Estimate the importance of re-use in terms of revenues for cultural institutions;

– Estimate trends in the development of the re-use market for cultural material.

1.3 Timeline

1.3.1 The project began in December 2010. Information gathering has been conducted between February and March 2011.

1.4 Background

European legislation for re-use of PSI

1.4.1 Public sector information (PSI) is the single largest source of information in Europe.[2] In November 2003, Directive 2003/98/EEC on the re-use of public sector information was adopted with the aim to establish an internal market to fully unlock the economic potential of PSI and remove barriers such as discriminatory practices, monopoly markets and a lack of transparency. All 27 EU Member States have implemented the PSI Directive into their national legal orders. Article 1(2)(f) excludes documents[3] held by cultural establishments from the scope of this Directive.

The need for an evidence base

1.4.2 In 2009, the Commission reviewed the way in which EU PSI rules were being applied, which confirmed that PSI re-use has been on the rise but also that to realise the full potential of PSI for the EU economy, EU Member States must remove remaining barriers to re-use. The Commission announced on 7 July 2010 that a second review of Directive 2003/98/EC would shortly commence with a public consultation,[4] and will consider legislative amendments. It has been labelled as one of the key actions of the "Digital Agenda for Europe".

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[2] See <http://ec.europa.eu/information_society/policy/psi/index_en.htm>, accessed on 11 October 2010.
[3] The directive uses the term document for all materials held or created.
[4] See <http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=psidirective2010>, accessed on 13 October 2010.

1.4.3　Some evidence is available relating to re-use in the cultural sector but these studies are either outdated or not focused enough for this review, and the statistical frameworks used at European and national levels are not tailored for the cultural sector.[5] A new evidence base is now required to understand the importance of re-use to the budgets of cultural institutions.

1.5　Approach

Information gathering

1.5.1　At the request of the European Commission, six member states were selected for investigation, to ensure a range of views: France, Hungary, The Netherlands, Romania, Sweden and The United Kingdom. From each country, a range of cultural institutions was invited to take part. These institutions received a survey instrument in two parts: an introductory survey addressed to the institution's director, which was then followed up with a detailed survey addressed to an individual they nominated. The surveys were also distributed to an additional group of cultural institutions (both within the original six countries, and in other countries in the European Union).

1.5.2　Further details of the study methodology are provided at Section 2.

Analysis

1.5.3　Responses were analysed to provide specific information to meet the objectives of this study. The small size of the sample population, combined with the great diversity of the cultural sector in Europe precludes broad generalisation, so applying statistical approaches would be unhelpful in understanding the data generated. The analysis is therefore focused on understanding the patterns of re-use, rather than coming to overall values or estimates of the size of the re-use market across Europe. A selection of brief case studies were generated to illustrate some common and novel approaches to re-use.

Reporting

1.5.4　This document is the final report for the project.

1.6　Overview of this document

1.6.1　The rest of this report is set out as follows:

- Section 2 describes the methodology in detail;
- Section 3 sets out the key findings of the project;
- Section 4 describes a set of case studies of re-use activities;
- Section 5 presents the views and concerns of survey respondents as expressed in the survey and through interviews.

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[5]　For example <http://ec.europa.eu/culture/key-documents/doc873_en.htm> and <http://ec.europa.eu/culture/key-documents/doc975_en.htm> accessed on 14 April 2011.

2 Methodology

2.1 Sample selection

2.1.1 The Commission requested that we select exemplar cultural institutions from "6 Member States, 4 big and 2 small". To achieve this, we ranked the European Union Member States by GDP *per capita* and identified 6 which satisfy these criteria:

- France (Large);
- Hungary (Small);
- The Netherlands (Large);
- Romania (Small);
- Sweden (Large);
- The United Kingdom (Large).

2.1.2 The Commission requested that the study should address a total of 25 large and 25 small cultural institutions. To ensure coverage across the full spectrum of institutions, and a viable rate of return, we proposed an initial target list of 120 institutions. To ensure good coverage within each country studied of different types of institutions, sizes and governance models, we applied the selection framework in the following table.

Class	Definition	Number invited
Pre-eminent	Very large institutions with internationally significant collections.	18
Large	Large institutions with important collections. Where appropriate/relevant, factor in a spread of cultural institutions across different types/governance (*ie* independent, publicly funded, museum, library, archive or other)	42
Small	Smaller cultural institutions, which may serve a local area, or a niche market. Collections may have local significance, or broader significance to a smaller group of users.	60
Total cultural institutions		120

Table 2-1: selection framework for invited institutions

2.1.3 The categorisation of institutions into pre-eminent, large and small classes is qualitative, and drawn from the experience of the project team and our contacts in each country.

2.1.4 In addition to these invited institutions, we promoted the study at a range of events in which the project team were involved. This has resulted in a few responses from institutions that were not invited, and from countries that were not included: Austria, Belgium, Estonia, Germany and Lithuania. These responses are included within the analysed data, as we believe that they add further detail to the range of re-use undertaken.

2.2 Data collection

2.2.1 Information was gathered in a two-stage process using an online survey as described in the following paragraphs.

2.2.2 **Part 1: an introductory survey** allowed rapid identification of institutions involved in re-use of cultural materials. The survey was directed to key contacts in the targeted institutions (in most cases the institution's director, for smaller institutions the archivist or curator), accompanied by an introductory letter from the Commission. The letter requested the directors' participation, and asked a few short questions concerning the type of materials held by their organisation, whether or not they currently undertake any forms of re-use or intend to in future.

2.2.3 For those institutions that reported undertaking or planning to undertake re-use, we requested that the directors provide contact details for an individual in the institution who would be best positioned to complete the request for detailed information. This individual was then sent a personal link to complete the detailed element of the survey.

2.2.4 **Part 2: a detailed survey** gathered financial data for the years 2005 and 2009, as well as further detail concerning the types of re-use being undertaken. This survey also provided the opportunity for respondents to offer their perspective on the impact that inclusion within the PSI directive might have on their organisations.

2.2.5 As results were received, they were checked for compliance, and to identify potential case studies to illustrate common or novel types of re-use. To increase the response rate, targets who did not respond, or whose responses were incomplete, were contacted by email and/or telephone and offered assistance in completing the survey. Where appropriate, the research team collected data during the telephone call in lieu of having the respondent complete the online survey, or to supplement the information they had already entered.

2.2.6 Many respondents from small institutions found it difficult or impossible to provide precise financial information. In many cases, the income from re-use is included within a larger budget centre, and extracting the details of re-use activities is not possible without a line-by-line analysis. We asked respondents in this situation to estimate these figures, and these are included within the analysis.

2.2.7 Participants were guaranteed anonymity, so the results here are presented in aggregate.

2.3 Analysis

2.3.1 The small sample size specified for this project, alongside the broad diversity of the cultural sector across the EU limits how far these results can be generalised. It is more constructive to see the results of this survey as a broad set of "point samples" from across Europe. Although trends and an overall picture can be drawn from this data, it is not appropriate to attempt to generalise the information. For example, the national access to information regimes in each country strongly affect the approach to re-use and charging, and national policy is not within the scope of this study. Without studying each member state, it is not possible to understand the impact that these local situations have on re-use.

2.3.2 Analysis was structured around the following key questions, agreed with the Commission:

– What is the full range of types of re-use present today in cultural institutions?

– How do re-use revenues compare to overall income of the institutions?

– Which types of re-use activity appear to be generating the most revenue?

– Which are most commonly attempted?

– Which have shown the most growth over the interval studied?

– Which are relatively recent entrants, and should be watched for future growth?

– Which activities are undertaken by the institution, and which revenues are derived from third-party uses?

– Which metrics appropriately reflect re-use across Europe?

2.3.3   A further aim for this project was to investigate conformity of institutions with the provisions of the directive. As cultural institutions are currently exempt from the PSI Directive, they have usually not structured their processes around the requirements of the directive. As such, we have selected indicators that describe alignment with the *principles* of the directive rather than the detailed obligations – in particular since member states may have transposed elements of the directive differently, to integrate more effectively with other national access to information legislation. The indicators that we have used are set out in the following table:

Category	Detail
Discoverability	– The proportion of holdings which are discoverable through different means;
Availability	– The proportion of holdings that are available for re-use;
Charges	– The transparency of the charging mechanism; – The basis of charges (commercial, cost recovery *etc*); – The availability of charging information online;
Licensing	– The availability of licenses online; – The availability of exclusive licenses;
Process	– The time taken to respond to re-use requests;
Financial	– Income from re-use activities; – The proportion of total income that is from re-use activities; – The proportion of income from re-use activities that is from 3rd-party re-use;

Table 2-2: indicators for alignment with the PSI directive

3 Findings

3.1 Introduction

3.1.1 As discussed above (sub-section 2.3), it is extremely difficult to generalise from the results of this survey. The approach that institutions have taken appears to depend on a very wide range of intrinsic and extrinsic factors – from the strategy of the state they are located in, through the nature of the collections, right down to the personalities of the people involved at an institution. It is important to bear in mind that a sample of this size cannot be representative of such a diverse community. These results should not be seen as statistically significant: they are illustrations of the situation across Europe.

Sample characteristics

Part 1: introductory survey

3.1.2 There were 75 responses to Part 1, of which 66 were accepted in total. Because each institution should count only once in the summary data, we have excluded four entries from institutions that submitted twice (in three cases, listing the same contact person, and in one case, listing different contacts). In each case, we accepted the entry submitted latest as representative of the institution's viewpoint. Where appropriate, we considered the free-response answers if they offered a different nuance in either pass.

3.1.3 Two responses from consultants to cultural heritage organisations and two from organisations were excluded as outside the scope of the sample. One submitted response that contained no data was omitted.

Country	Total	Museums	Libraries	Archives	Perf. Arts	Other
Austria	1	0	1	0	0	0
Belgium	2	1	0	0	0	1
Estonia	1	1	0	0	0	0
France	8	2	2	4	0	0
Germany	1	0	0	0	0	1
Hungary	5	2	3	0	0	0
Lithuania	1	1	0	0	0	0
Netherlands	8	2	3	2	0	1
Romania	6	1	3	2	0	0
Sweden	9	4	4	1	0	0
United Kingdom	23	6	5	2	3	6
Anonymous	1	0	1	0	0	0
Total	66	20	21	11	3	9

Table 3-1: responses to part 1

3.1.4 The sample is heavily weighted toward Museums Libraries and Archives (MLA), rather than Performing Arts organisations. This is consistent with the sample set, which included many fewer

performing arts organisations than MLA organisations. The sample is weighted toward UK respondents, which we believe to be due to using English as a working language.

3.1.5 Large and small countries are well represented, although the sample is too small to discuss the situation in a sub set (such as museums in the Netherlands).

3.1.6 Large and small institutions are represented, although large and pre-eminent institutions have been more willing and more able to respond, typically requiring less support or persuasion to take part.

Country	Total	Pre-eminent	Large	Small
Austria	1	1	-	-
Belgium	1	-	1	-
Estonia	1	1	-	-
France	8	2	1	5
Germany	1	-	-	1
Hungary	5	1	3	1
Lithuania	1	-	1	-
Netherlands	9	3	1	5
Romania	6	2	3	1
Sweden	8	2	2	4
United Kingdom	24	5	12	7
Anonymous	1			
Total	66	17	24	24

Table 3-2: respondents to part 1 broken down by size

Part 2: detailed survey

3.1.7 As expected, not all of the respondents to Part 1 completed Part 2. Although some individuals responded very rapidly, in many cases it has taken several weeks to provide responses. This is usually due to the need to consult a range of individuals from several functions (*eg* finance, business development, retail) to provide a comprehensive response.

3.1.8 In some cases, we received responses from different parts of organisations than those we invited. In several instances, we invited a small organisation who referred the question to a larger organisation – for example, one response to Part 2 was directed to a small museum, but the response we received provided information for 13 small museums, galleries, monuments and historic buildings.

Country	Total	Museums	Libraries	Archives	Perf. Arts	Other
Austria	1	-	1	-	-	-
Belgium	1	1	-	-	-	-
Estonia	1	1	-	-	-	-
France	3	-	2	1	-	-
Germany	-	-	-	-	-	-
Hungary	1	-	1	-	-	-
Lithuania	1	1	-	-	-	-
Netherlands	4	1	1	1	-	1
Romania	5	1	3	1	-	-
Sweden	5	2	2	1	-	-
United Kingdom	13	4	2	2	1	4
Total	35	11	12	6	1	5

Table 3-3: responses to part 2

3.2 Current importance of re-use

3.2.1 This sub-section considers the level and type of re-use occurring at present (based on 2009 figures), and compares this to the situation in 2005, to identify changes in the types and scale of re-use undertaken.

3.2.2 This sub-section answers the questions:

– What is the full range of types of re-use present today in cultural institutions?

– How do re-use revenues compare to overall income of the institutions?

– Which types of re-use activity appear to be generating the most revenue?

– Which are most commonly attempted?

Overview

3.2.3 The majority of organisations that responded to part 1 of the survey undertake some re-use activities.

Row Labels	Pre-eminent	Large	Small	Total
(No Answer)	-	3	3	6
No, and we do not intend to	1	1	8	10
No, but we are planning to	1	2	3	6
Yes	15	18	10	43
Total	17	24	24	65

Table 3-4: re-use by size of institution

3.2.4   The remainder of this section is based only on responses to part 2 of the survey, which comprises only institutions that reported that they undertake re-use.

Types of re-use

3.2.5   In our small sample of respondents, the most commonly attempted form of direct re-use activity is downloads of files of digital items, while the least popular is timed access.[6]

3.2.6   Three respondents pointed to other forms of direct re-use. One noted sales of physical copies of digitized documents (on paper or in electronic form) by request. Another pointed to sales of photographic reproductions through their partnership with another government agency. The third stated that they will, on request, export record batches from their electronic bibliographies.

Re-use type	Yes	No	No - but we're planning to	(No response)
Downloads of files of digital items	21	4	2	7
Timed access	6	19	1	8
Sale of customised collections	14	12	1	7
Sale of physical reproductions through your online store	15	9	3	7
Sale of physical reproductions through your on-site shop	16	9	1	9
Sale or licensing of educational and/or contextual materials	11	13	2	9

Table 3-5: direct re-use activities

Third-party re-use

3.2.7   The most popular third-party re-use activity among our small sample of respondents is the licensing of files of digital copies.

3.2.8   Re-use involving a third party typically involves adding content to an existing service, for example an image library or a genealogy website. These arrangements capitalise on the existing expertise and market that the third party provides. They are mostly undertaken by the larger institutions that have time and expertise to manage these relationships, but smaller institutions have reported that they are increasingly considering or commissioning projects to undertake similar activities.

Re-use type	Yes	No	No - but we're planning to	(No response)
Licensing of files of digital copies	18	10	2	5
Licensing of ancillary content	5	22	3	5
Licensing of rights to use a database	7	20	3	5

Table 3-6: third-party re-use

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[6]   For example, pay-per-view video.

3.2.9 Of the 35 respondents to part 2, 26 provided at least some level of financial data.

3.2.10 In our sample, re-use (in 2009) accounts for approximately 0-4% of total income, with two responses at around 7 and 11%. This represents re-use incomes of up to €10M.

3.2.11 Institutions appear to fall into several qualitative groups (which we have named, for ease of discussion) based on their *approach to re-use:*

- Group 0: "no re-use"
  - Institutions that undertake no re-use activities.
  - These are mostly small institutions, including for example several local public libraries that only hold material covered by third-party IPR.

- Group 1: "public duty"
  - Institutions of any size that do not charge for re-use of their content.
  - Institutions that recover costs only. This is often a "per page" copying fee.
  - It is important to note that re-use for these institutions is not necessarily a minor component of income – cost recovery may make up a significant proportion of an institution's income, but without generating any profit for re-investment.

- Group 2: "pocket money"
  - Institutions that earn some income from re-use activity, but this is on a small-scale and often *ad hoc* basis. This may include activities such as digitising and then licensing local photography, or selling postcards. The income from these activities may be used to develop the service, or may go back into general funds, but it is not of strategic importance to the organisation.
  - This income is typically < 1% of the organisation's total income, and is in the range of tens of thousands of €.

- Group 3: "big plans"
  - Institutions that view re-use as a significant element of their operations. These institutions typically see the income from re-use as an opportunity to invest in new services or capabilities. These are exclusively preeminent and large institutions, with the business and technical skills to conduct complex procurement and project management.
  - This income is typically 2-10% of the organisation's total income, and is in the range of hundreds of thousands to millions of Euros.

3.2.12 These appear to be similar across types of institution and different countries – for the most part, there is no particular pattern of how different types of institution lie within these categories. However, based on this sample, the institutions with the highest income from re-use are typically those in the "big plans" category. These are mostly pre-eminent or large national institutions—including museums, libraries, and archives—that have been conducting chargeable re-use activities for many years (in one case, since 1765!).

3.2.13 The institution with the highest income from re-use generated ~€10 M in 2009, representing 7.1% of total income. The institution with the highest proportion of income from re-use generated ~€6 M, representing 11.1% of total income.

3.2.14 To illustrate the range of income generated by re-use, the following table sets out the absolute and relative importance of re-use for the national libraries that supported this work (figures in €

are rounded). This demonstrates how even similar organisations can have very different approaches to, and income from, re-use.

Library	Gross income	Earned income	Re-use income	Re-use as % of gross income	3rd-party re-use income	3rd-party re-use as % of total re-use
A	€195 M	€9 M	€400 K	0.2%	€300 K	80%
B	€160 M	€40 M	€5 M	3.2%	€1 M	20%
C	€55 M	€800	€100	0.0%	0	–
D	€35 M	€3 M	0	–	0	–
E	€30 M	€4 M	€500 K	2.0%	€50 K	10%

Table 3-7: national libraries' income from re-use

Analysis

3.2.15 Very few institutions are dependent on the income they receive from re-use in order to undertake their public task. However, the income that they receive from re-use is in many cases essential to enable future re-use and development of re-use services. This is true for large and small institutions, and for "pocket money" as well as "big plans".

3.2.16 It is unsurprising that the largest institutions have the most income from re-use: they have the largest and most notable collections, and they have the administrative capability to manage the exploitation of this material. These institutions are most likely to undertake third-party re-use, licensing entire collections to an external organisation that undertakes digitisation and then generates income. This income is then used to fund the staff time and effort that is required to prepare further collections for digitisation and re-use.

3.2.17 However, we have also observed examples of this in smaller organisations, where several small organisations may share the overhead of digitising material. For example, one group of small museums are working together to take digital images of their artefacts. The photographer is employed with income generated from the sale of these images (and postcards printed from them). Without the income from the re-use, it would not be possible to employ the photographer, so the digitised material would not exist to be re-used.

3.2.18 Discussions with institutions have revealed a relatively open approach to considering partners for re-use. Those institutions that are actively considering wider re-use of their materials have also been proactive in considering how to achieve this most effectively. Most institutions recognise that third parties can potentially add value to collections, and bring these collections to individuals that the organisation themselves cannot currently reach.

3.3 Trends in re-use

3.3.1 Many institutions had difficulty in identifying income from 2005, which further limits the degree to which the scale of re-use can be measured quantitatively. Figures within this report are not inflation-corrected.

3.3.2 This sub-section answers the questions:

- Which [activities] have shown the most growth over the interval studied?

- Which are relatively recent entrants, and should be watched for future growth?

    –   Which activities are undertaken by the institution, and which revenues are derived from third-party uses?

Overall financial importance

3.3.3   Overall income from re-use activities has varied between 2005 and 2009, with some organisations reporting growth and some reporting reductions. As a proportion of overall income, however, re-use has remained approximately level (<1% change) for all of those institutions that provided financial data for this question.

3.3.4   The institutions with the greatest income are those in the "big plans" category, who have well-established products and services, and have often been offering these for many years. These institutions have typically seen small decreases in the proportion of their income that comes from re-use: although overall income from re-use is level or increased, it has not lagged behind growth of the institution's overall income.

3.3.5   In summary, there does not appear to have been a significant change between 2005 and 2009 in the proportion of institutions' income that is generated from re-use.

Strategy and selection of individual projects

3.3.6   Many respondents stressed that they were trying to balance their public task of disseminating information with their requirement to generate income, including income to fund future development of re-use services. As expected, many projects have been started since 2005, and many more are currently being planned. It is clear that institutions are actively seeking out opportunities to re-use their content.

3.3.7   To understand the picture of re-use fully, it is necessary to consider the range of re-uses that do not generate income, as some institutions are investing in such activities as they see this as part of their public task. This raises the question of when re-use is simply use, since different institutions have different perspectives on what is within their task: for example, some museums see disseminating knowledge as a key task, whereas some are primarily focused on their preservation and curation activities.

3.3.8   In the survey, we asked respondents to list examples of discrete re-use projects being undertaken at their institution. Of the detailed re-use activities that respondents described, approximately one-third began after 2005, and thus no comparative figures exist for these.

Year project started	Number of examples
older	10
2001	1
2002	–
2003	2
2004	2
2005	1
2006	2
2007	2
2008	2
2009	5
2010	1
(Unknown)	5

Table 3-8: year projects began

3.3.9 The oldest projects are typically of two types: "big plans" institutions that have been delivering services for decades or centuries, and traditional "pocket money" activities such as the sale of postcards.

3.3.10 Perhaps unsurprisingly, the three re-use types that have become more commonly adopted by the surveyed institutions over the past ten years include downloads of files of digital copies, licensing of files of digital copies, licensing of rights to a database, and sales of physical re-productions through an institution's online shop. It is difficult to gauge the financial success of a given re-use type in our sample because institutions often reported using multiple re-use mechanisms (*eg* licensing of rights to a database *and* sales of physical re-productions) for a single re-use project. With that said, respondents gave the anecdotal sense that licensing activities, particularly for files of digital copies held by the institution, is becoming more prevalent. Several respondents also noted that they expect licensing of copies of digital files to private entities to become a more important revenue source for them in the future. Table 3-9 overleaf shows when different types of project began.

Year started	(Unknown)	2000 or earlier	2001	2002	2003	2004	2005	2006	2007	2008	2009
Downloads of files of digital copies	3	6	1	1	3	1	0	2	2	2	3
Timed access to collections of digital content	0	2	1	1	2	0	0	1	0	0	1
Sales of customized collections	1	4	1	0	0	1	0	1	0	0	0
Sale of physical reproductions through your online store	3	4	0	0	2	0	0	0	1	1	0
Sale of physical reproductions through your on-site shop	5	5	0	0	0	0	1	0	0	0	0
Sale of educational and/or contextual materials	2	6	0	0	0	0	0	1	0	0	0
Licensing of files of digital copies	0	7	0	0	1	1	0	1	0	1	4
Licensing of ancillary content, commentary, or teaching tools	0	2	1	0	0	0	0	0	0	1	0
Licensing of rights to use a database	0	2	1	0	1	0	0	0	0	2	3
Other	0	6	0	1	2	1	1	0	0	0	0
Total reported re-use types (multiple types per reported project)	**15**	**44**	**5**	**3**	**11**	**4**	**2**	**6**	**3**	**7**	**11**

Table 3-9: re-use types reported-, grouped by start date (individual activities may be listed under several categories)

3.3.11 Considering the projects started before 2005 that provided financial data, in the period between 2005 and 2009 there is no clear pattern of growth or decline: 14 grew, 5 shrank, and 3 showed no change in income. Although the definition of a "project" was largely at the discretion of the respondent, these re-use types ranged from the modest (less than € 2,000 in annual revenue for sales of postcards at a small institution) to significant (€ 10 million in revenue for an audiovisual licensing program). Data on the anonymised projects is reported in Table 3-8.

3.3.12 The small size of the dataset makes it impossible to identify unambiguous relationships between project type and the project's change in fortunes. However, in this small sample, the five projects that saw a decrease in revenue from 2005 to 2009 all involved licensing to production agencies, publishers, or other commercial concerns—entities that may have been severely challenged

during the economic downturn of 2008-09. Their business difficulties may have trickled down to the cultural institutions in this sample, either in the form of decreased royalties or licence fees, or in the avoidance of making new licensing deals with cultural institutions.

Re-use project type (anonymised)	2005 Revenue	2009 Revenue	% Change
Image and moving image licensing to commercial concerns	€9,300,000	€10,000,000	8 %
Licensing of digitized archival documents to aggregators	€343,800	€2,521,200	631 %
Sales of books, CDs, AV reproductions and educational material	€1,118,496	€2,191,152	96 %
Licensing of bibliographic metadata to publishers	€2,191,152	€1,503,552	-31 %
Digitisation projects with commercial and public third parties	€1,272,060	€1,421,040	12 %
Film and video licensing to broadcasters and production agencies	€856,062	€538,620	-37 %
Sale and licensing of images to commercial concerns and individuals	€331,194	€344,946	4 %
Licensing of digitized archival documents to aggregators	€26,702	€343,800	1188 %
Sales and licensing of digital images	€171,900	€229,200	33 %
Reproduction fees for images and books	€288,792	€221,178	-23 %
Licensing of literary works and images to publishers	€205,000	€212,000	3 %
Licensing of books and images to publishers	€205,000	€212,000	3 %
Licensing of bibliographic metadata	€20,000	€50,000	150 %
Sales of posters and prints online	€40,000	€50,000	25 %
Physical reproductions for sale on-site and online	€27,783	€33,340	20 %
Sale of printed exhibition catalogues, on-site and online	€11,113	€16,670	50 %
Sales of image reproductions	€11,113	€11,113	0 %
Selling copies of photographs to publishers or private individuals	€7,079	€4,663	-34 %
Sale and licensing of images to commercial concerns and individuals	€4,584	€4,584	0 %
Sale of exhibition catalogues, CDs, and DVDs to individuals	€1,500	€2,500	67 %
Sale of image downloads and physical reproductions	€2,000	€1,500	-25 %
Postcards for sale in the gallery shop	€1,146	€1,146	0.0 %

Table 3-10: High-level revenue information on re-use projects reported by respondents

Emerging re-use types

3.3.13   In addition to reporting on existing re-use projects for which a track record of revenue generation exists, respondents to the survey were asked to comment on re-use projects that they have recently started and that they feel have the potential to generate significant income in the future. Their responses included:

– *Licensing digitised content to commercial aggregators* (5 respondents). A number of respondents commented that such arrangements are valuable (because they generate income and thus lessen the institution's reliance on government funding) but also raise questions about the institution's role in disseminating cultural materials freely.

- *Sales of ebooks and print-on-demand books* (5 respondents).

- *Licensing of metadata* (2 respondents). One of the respondents noted that although they aim to make their metadata freely available for use by developers and others, they are open to charging for cost recovery in the future: "Our vision is that [although] discovery should be free, delivery may be charged (depending on the kind of material, copyright issues and the efforts we have to undertake to deliver)."

Digitisation and re-use

3.3.14   Many respondents expressed in qualitative sections of the survey a sense that digitisation of content was synonymous with enabling re-use. Respondents have generally expressed the view that material must be digitised to reach as wide an audience as possible. Nonetheless, there are good examples of "analogue" re-use, such as reproduction fees, selling prints, catalogues *etc*.

3.3.15   There was a general view that the cost and effort of digitisation was the major factor limiting re-use of their material. Depending on the capability and nature of the organisation, this typically either has prevented the re-use of the material, or has led to third-party re-use.

3.3.16   Although not an emerging type of re-use, a range of respondents expressed their current plans to be "more of the same" – digitise more collections and more types of collections.

3.4   Compatibility with the PSI directive

3.4.1   A further aim for this project was to investigate conformity of institutions with the provisions of the directive. As cultural institutions are currently exempt from the PSI Directive, they have usually not structured their processes around the requirements of the directive. As such, we have selected indicators that describe compatibility with the *principles* of the directive rather than the detailed obligations – in particular since member states may have transposed elements of the directive differently, to integrate more effectively with other national access to information legislation.

3.4.2   This section discusses how the respondents to part 2 of our survey manage the key issues of discoverability, availability, charging, licensing, and having a suitable process to manage re-use requests.

Discoverability

3.4.3   The cultural institutions in this sample have invested in making their content findable through a variety of mechanisms, both traditional and electronic.[7]

3.4.4   In our small sample, approximately two-thirds (26 out of 35 respondents) reported that "all" or "most" of their collections can be discovered via consultation with a staff member (where "most" was defined as more than 50% of their holdings). Twenty out of 35 reported that all or most of their content is available via physical catalogues.

3.4.5   Fewer institutions have made a substantial proportion of their content discoverable through networked resources. Of the 35 respondents, twelve have records for almost all of their items available via electronic catalogues at their institutions. Fourteen out of the 35 respondents make almost all their collections available through their website. Those respondents sit at very different points along the spectrum of overall budgets when measured against the other

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7   This question asked only about content held at the institution that is *not* covered by third-party intellectual property rights.

respondents that provided such figures – three are near the top of the income table (which makes sense, given the substantial investment needed to provide metadata for a great volume of content), while two sit near the bottom of the income table.

3.4.6   From a similar but slightly different angle, the data suggests a weak correlation between re-use revenue and discoverability via institutional website and electronic catalogues that may be worth further exploration. Of the 23 institutions that reported re-use revenue figures for 2009, four of the top five (and five of the top 10) reported that more than 50% of their in-scope holdings are discoverable via their website (compared with just 41% of the overall response pool). Similarly, four of the top five (and seven of the top ten) reported that more than 50% of their in-scope holdings are discoverable via electronic catalogues available at their institution (compared with just 53% of the overall response pool).Four other discovery methods were reported, including use of OAI-PMH metadata harvesting, "by request", and the use of an extranet that is open only to professionals who register with the institution in question.

Analysis

3.4.7   The financial and other resources needed to catalogue materials and otherwise make materials discoverable are an established challenge for the cultural sector.

3.4.8   We suspect, based on the weak correlation in our data and our practical experience, that strong discoverability via networked resources is a pre-requisite for generating successful re-use (although in some cases of re-use through a third party, it is the third party that enables discoverability after negotiating for access to an entire collection) . As such, we would expect that the best-resourced institutions – that is, those in a position to make large outlays for metadata and other networked discoverability mechanisms—would be best positioned to exploit re-use revenue from their holdings. Of course, these institutions often have larger, more complicated collections that require more effort to catalogue.

3.4.9   With that said, discoverability has a wide range of meanings, depending on context, and these cannot easily be captured by a survey. For example, does 'discoverability' mean knowing that a museum holds a collection of papyrus scripts, or does it mean that item-level descriptions of these scripts are available? The quality of the metadata and discoverability mechanisms would obviously be crucial for exposing the materials to a wider audience of re-users, but it is difficult for a survey like ours to capture that qualitative aspect.

3.4.10   Finally, in some cases, discoverability of resources is strongly tied to the material that can be re-used. For example, in libraries, the metadata for their holdings is a tool for discoverability but also a product that they license or sell (Indeed, one of the institutions in our sample derived approximately € 1.5 million from licensing bibliographic metadata in 2009). Libraries that sell access to their metadata in some cases may be making a trade-off between revenue generation and greater discoverability of their content (by making their metadata freely and unrestrictedly available to any re-user).

Availability

3.4.11   We considered availability from the perspective of whether the IPR status of the collection would permit its re-use. Out of our small sample, only one institution reported that all of their holdings are covered by third-party copyright (this institution is a library, and when we clarified this point, they reported that they also have metadata for their holdings which is either IPR-free, or they own the IPR for). Most institutions reported that "most" or "some" of their collections were covered by third-party copyright. One institution (an archive) reported that their institution either owns the IPR for all of their holdings or the materials in question are out of copyright.

3.4.12 The question "Do you have any plans to audit the IPR in your collections?," was only asked to the single respondent who reported that they did not know what the IPR status of their holdings was – and that organisation plans to do so but has not yet begun. Discussions with institutions revealed that the IPR status of holdings was known at a collection level – in the sense that they knew that collections were partly- or mostly-covered by third-party copyright, but did not have per-item records.

Analysis

3.4.13 The IPR status of holdings provides a challenge that will limit the availability of collections for re-use. Some organisations who provided qualitative input to this study are deeply concerned about the administrative overhead in managing requests for re-use that require rights clearance activities.

3.4.14 Libraries typically have an easier task of managing IPR: the majority of their holdings are published materials that have a clear status. Libraries have varying views of IPR in their metadata – some hold that it has IPR, some do not.[8] The materials that local libraries hold which is of less certain IPR status is also that which often has most re-use potential: local studies information, for example local photographs.

3.4.15 Museums and archives have typically more complex collections, and more complex IPR status associated with them.

Charging

3.4.16 In this small sample, 13 of the 35 respondents reported that they "always" or "for some collections" charge a commercial rate for re-use. (Five of these were museums, for which image licensing is a significant re-use activity, and one for which they are serving customers in the commercial sector.)

3.4.17 In response to a question asking institutions that charge a commercial rate to explain how they determine that rate:

– Three reported relying on market research (two benchmark against peer cultural heritage institutions, while a third relies on a "competitive analysis" that may or may not include a consideration of the commercial rates charged).

– Two reported that partner institutions who handle sales/licensing and fulfilment determine the commercial rates.

– One institution indicated that they set their commercial fees in accordance with guidelines offered by their nation's treasury.

– One institution indicated that the institution charges a flat fee according to the medium in which the material will be re-used (TV, home video, advertising, etc.), the territories in which the materials will be re-used, and the duration of the license for re-use. In certain cases, the same institution asks for a revenue-sharing agreement.

3.4.18 Fifteen of the 35 respondents have a firm fee structure. Three institutions negotiate all re-uses individually, and three institutions do not charge re-use fees. Nine institutions chose "other" and offered more nuanced answers, including:

– One reported waiving fees for educational and research use, while negotiating rates for commercial use on a case-by-case basis.

– Two institutions reported charging only for high-resolution materials.

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[8] We investigated this issue in greater depth in an earlier study for JISC: <http://goo.gl/BZOUX> [accessed 15 March 2011]

- One reported that, although their fee structure is posted online, there is such a large number of possible combinations of fees that the institution nearly always must devote staff time to helping the consumer understand the charges. (This institution was near the top among institutions that reported their 2009 revenue, an indicator that they likely hold a great amount and diversity of content types.)

- One reported applying "a number of approaches" to charging.

Analysis

3.4.19   Cultural institutions hold a very wide variety of materials, and operate within very different regulatory and cultural environments. The approaches that they take to charging are similarly diverse. For example, two national libraries charge for re-use of their bibliographic metadata, whereas another two do not (and in fact, needed to be prompted to consider sharing their metadata as re-use – both viewed sharing their metadata as an obvious activity. As one put it, "There are not so many requests for use of our metadata, but we do contribute [it] *eg* to Europeana - free of charge, of course").

3.4.20   Those institutions that hold material with well-developed commercial markets – such as images and archives of use in genealogy – are correspondingly more likely to adopt commercial pricing models.

Licensing

3.4.21   Of the 35 respondents to a question asking whether they enter into exclusive licensing arrangements:

- 25 respondents do not enter into exclusive licensing arrangements.

- Two respondents enter into exclusive licensing arrangements for individual items. These were different institution types – a library and a museum. One's gross income for 2009 was approximately €2.5 million—near the bottom of the sample of those respondents who answered this question—while the other's was €90 million—near the top of the sample.

- Two respondents enter into exclusive licensing arrangements for entire collections (a pre-eminent library and a large archive). In both cases, there are complexities in the exclusivity agreement: the library's contract allows the content to be made freely available to users within the library's country while the third party monetises the content by selling or licensing to customers outside the country; the archive's contract allows them to break the exclusivity clause but levies financial penalties for doing so (in the form of a lower royalty rate).

- Two institutions who selected "other" indicated that they enter into exclusive licensing arrangements for limited periods. One of these two respondents indicated that the purpose of doing so is "to attract private funds to digitise public assets, with a view to increasing access, at no cost to the public purse at a time of constrained public expenditure".

- One institution who selected "other" indicated that they license to television stations that "insist on having control of the images they have purchased from us (*ie* in terms of use over their networks/programmes) but this is not exclusive in that it does not affect our right to use the images or the copyright".

- One institution indicated that they grant exclusive rights for "programmes" (presumably full-length, edited television programs) but non-exclusive rights for footage.

Analysis

3.4.22   Respondents appear to have carefully considered the type of exclusivity in licences they offer, and are likely to be able to justify their choices. Exclusivity appears to be linked to two key cases:

1) Media licensing, where exclusivity is well-established in the commercial market;

2) Public/private partnerships where the private partner undertakes the digitisation. This case demands some exclusivity (perhaps only for a short period) in order to provide commercial incentive for the private partner.

3.4.23   These cases are concentrated in the larger organisations, which also have the skill and administrative resource to manage the negotiations and administration required for such services.

3.4.24   The data set is too small to determine whether exclusivity drives higher revenue, but the respondents who entered into exclusive agreements felt that this exclusivity enabled the re-use in the first place.

3.4.25   In a separate question on the survey, respondents pointed to licensing arrangements with commercial entities as one of the most likely re-use types to be of increasing financial importance in the near future. This indicates that even institutions that do not yet depend on such arrangements expect that they will need to in the future.

Process

3.4.26   Of the 23 respondents to a question about the length of time needed to respond to re-use requests:

– 27 reported responding to re-use requests in less than 20 working days.

– One reported responding in 21 or more working days.

– Four reported fulfilling license agreements immediately via an online automated procedure.

– One reported not receiving any requests.

– Two institutions did not respond.

Analysis

3.4.27   Organisations are responding to requests for re-use in a timely manner. Further discussion with some of the respondents highlighted that although day-to-day re-use requests could be met within 20 days, developing new services, negotiating with delivery partners, etc, often took much longer. Some organisations led the process of re-use by tendering a contract, which was then subject to EU procurement processes.

3.5   Questions raised during this study

3.5.1   Several issues have been identified during this study that may need to be considered when considering these results, and in any future work to understand the complete picture of re-use and public duty within the cultural sector across Europe. These are in addition to the views of respondents, which are discussed in section 5.

1) In many cases, the approach taken to income generation is defined by an institution's task, which in some cases is set down in legislation. It may be instructive to consider the situation regarding re-use from a member-state perspective in addition to this organisational

perspective – what access to information legislation, or legislation establishing national institutions exists in each member state? How compatible is this with 2003/98/EC?

2) As the directive was not written with cultural institutions in mind, the language and logic is not directly applicable to the material held by these institutions. In particular, the extent to which an activity falls within the public task of an organisation is a matter of significant uncertainty for many respondents. Respondents to this survey found it difficult to engage with the concept of re-use. This study has investigated the current re-use activities, but before assessing how any loss of the exemption of the cultural sector would affect institutions, it would be necessary to define more clearly what activities would be affected.

3) This study was designed to identify current re-use activities, from the perspective of cultural organisations. There is a related question about which re-use activities have ceased or reduced, and why. For example, some metadata sets have been released openly due to government pressure, whereas the income from some licensing activities has fallen due to the economic environment.

4) It may be instructive to investigate some of the high-income activities in more detail across Europe, to see things from the service perspective rather than the organisational perspective. In particular, competitive markets are developing or established in some types of re-use, it would be interesting to investigate these markets directly.

4 Case studies

4.1 Introduction

4.1.1 This section presents brief case studies that investigate i) common re-use approaches, and ii) new approaches felt to have significant potential. They have been selected to illustrate the kinds of activities undertaken, rather than as a comprehensive set.

4.1.2 These provide some organisational context, and describe one individual use case within the organisation: they are not comprehensive overviews of the full range of activities that these institutions undertake.

4.2 Audiovisual licensing

Context

4.2.1 L'Institut national de l'audiovisuel (INA) in Paris holds as an archive of French television and radio recordings stretching back over 70 years (http://www.ina.fr). INA holds historical recordings from French public broadcasters, and also has a role as a legal deposit archive where current material from both public and private broadcasters is lodged.

4.2.2 INA is a not-for-profit organisation, but earns a significant proportion of its income from commercial activities including the production of films, education, professional training and the licensing of audio visual content.

4.2.3 Over the last decade or so, there has been an increasing focus within INA on the service delivery aspect of their work – the value of the archive material that they hold can only be realised if potential users can find and gain access to material in a way that suites them. INA has been pro-active in experimenting with new ways to provide this material both to professional users and to the general public.

Audiovisual licensing

4.2.4 The largest single source of earned income for INA is commercial licensing activities, generating more than €14M this year. INA has licensed its content for commercial use since the organisation was established in 1974, and is gradually digitising the entire archive.

4.2.5 Since 2004, INA has provided access to this material through the website Inamédiapro (http://www.inamediapro.fr). This provides a workflow management, ordering and delivery system for professional users. All of INA's archive (but not the legal deposit) material is available through Inamédiapro, including approximately 675,000 hours of digitised TV and radio material.

4.2.6 While INA offers 35,000 hours of content free to the general public via its public website, ina.fr, Inamédiapro has a clear set of professional customers, including advertising agencies, broadcasters, production companies and others who license this content for re-use in film, television, internet and other productions. This allows inamédiapro to focus marketing and product development activities on the needs of this specific group of users.

4.2.7　INA has found that it is not enough simply to make content available – in a competitive commercial sector, it is necessary to focus clearly on customer requirements. INA has delivered this by ensuring that it provides high quality service to customers, as well as high-quality material.

4.2.8　Inamédiapro has been described more fully at <http://goo.gl/dKc0W>

4.3　Access to archives for genealogy etc

Context

4.3.1　The National Archives (http://www.nationalarchives.gov.uk) is a government department and an executive agency of the Ministry of Justice. As the official archives of the UK government, it cares for, makes available and 'brings alive' a collection of over 1000 years of historical records, including the treasured Domesday Book.

4.3.2　It also manages current digital information and devises new technological solutions for keeping government records readable now and in the future. It provides world class research facilities and expert advice, publishes all UK legislation and official publications, and is a leading advocate for the archive sector.

4.3.3　The National Archives sets standards of best practice that promote and encourage public access to, and the re-use of information. It has also been instrumental in developing effective business models which enable improved accessibility and encourage re-use, in addition to providing guidance to other archives across the UK about how they could re-use their holdings

4.3.4　Through actively compiling new collections of content for imaging for the market and exploration of the potential of the content with commercial investors, The National Archives has sought to increase revenues over time. In the light of the current economic climate and the subsequent reduction in government funding over the next four years such work has become more important. As a result of its activity in this area, The National Archives has been able to continue to innovate and move forwards in many areas of their expertise despite these funding changes.

Access for genealogy

4.3.5　The Licensed Internet Associates programme (LIA) enables digitisation of archival holdings at The National Archives through the use of commercial partners. In the LIA model, digitisation of and collaboration on specific collections (e.g. the Census data from 1911) is put out to tender with the commercial partner bearing all costs of digitisation. Access to online services are provided by commercial partners to their customers for a charge, however all users onsite at The National Archives are able to access these services free from the reading rooms. This reduces handling and damage to the original paper records.

4.3.6　As the digitisation can be carried out at no cost to The National Archives, it enables materials to be digitised and provided to a worldwide audience on a scale that would never have been possible otherwise. Without outside investment, The National Archives would be unable to digitise collections as large as the British army service records of Chelsea Pensioners, for example. This project, completed in November, involved the release online of 8 million images.

4.3.7　Licensed Internet Associates are granted 10-year non-exclusive licences for digitising the content and developing a website through which they deliver the images to customers. This ensures a stable and long-term relationship for provision of access to the images to a wide range of people around the world - many more than would be able to visit the archives in order to view the

originals. In fact, the cumulative ratio for the financial year 2010/11 is over 220 online images delivered for every 1 document viewed in the reading rooms at Kew.

4.3.8   Licensed Internet Associates provide back to The National Archives digital files of the images created (but not any metadata they produce to support those files) as well as paying a royalty on income. The National Archives stores the images for business continuity purposes (e.g. in case a company becomes unable to provide an online service anymore) and can also at the same time re-license the images to other companies as secondary licensees. This encourages competition in the marketplace, helping to deliver a better deal for the end users who pay for access to online services. Royalties are paid to The National Archives and these are reinvested in the services provided by The National Archives.

4.3.9   In exchange, the Licensed Internet Associate receives the benefit of The National Archives branding on their site, as well as links to their services from The National Archives website. The National Archives brand is very trusted and the website receives over 22 million online visits a year. These are valuable benefits to the commercial partners who are able to present themselves as the "official" provider of the content online and so the licences are mutually beneficial as well as in demand. Secondary licensees do not have the benefit of this branding and links from the website and therefore pay a lower royalty rate. As second-to-market, they do not need to invest in digitising the material in the first place but they also do not receive the benefit of the excitement and impetus generated by newly launched material.

4.3.10   The TNA LIA programme has been described more fully at <http://goo.gl/lZojW>

4.4   Mobile content/apps

Context

4.4.1   The Natural History Museum (NHM) in the UK is a world-class museum with extensive collections covering botany, entomology, mineralogy, palaeontology and zoology (http://www.nhm.ac.uk). The main collections are housed in London, and receive approximately 4 million visitors per year.

4.4.2   The museum is "trying to build a relationship with people that goes beyond the dinosaurs", and is active in using technology to increase the value and impact of their collections. This is in both the evelopment of participatory social media systems that extend the visitor journey online and allow visitors to interact with each other and Museum Scientists such as NaturePlus and administrative systems such as Digital Asset Management

4.4.3   At present, interactive media at NHM is not an income stream, although some online services (such as ticketing and retail) do support established streams. There is a drive to consider opportunities for generating income, but this does not override the museum's public education and science responsibilities: the public service and commercial aspects are both considered when assessing new activities.

Mobile content

4.4.4   NHM has been following the growth of mobile platforms for internet access, and is aware that their visitors include an above average number of smartphone users. NHM is in the process of updating its online presence to reach this group better. There are two distinct strands to this activity:

–   Optimising existing web content to make it more accessible from mobiles, smartphones and tablets. This is the first priority, and work is underway.

–   Developing "apps" to run directly on smartphones.

4.4.5   At present, NHM sees no clear commercial case for the development of apps, and as such, the development is seen as primarily an opportunity for increasing awareness of the museum, marketing, and increasing awareness and experience of the process of app design within the museum. There is a sense that there might be a "killer app" for the NHM, but this has not been identified yet. Nonetheless, the museum intends to proceed with app development during 2011, with the aim of launching a product this year.

4.5   Printing postcards

Context

4.5.1   The University of Uppsala is one of the pre-eminent research institutions in Scandinavia, and the university library (Uppsala universitetsbibliotek) was founded in 1620 (http://www.ub.uu.se/). The library has, alongside a collection of approximately 5.5 million books, extensive special collections including early imprints, manuscripts, images, maps and music scores. The organisation also has a role as a legal deposit library for Swedish publications.

4.5.2   As an academic library, the mission of the library is tightly focused on the support of researchers, teachers and students. Its remit goes more widely, however, and the library has a goal to develop active interaction with the wider society – the library is open to users from outside the university, and has a duty to present its cultural heritage collections through exhibitions, tours, and online.

Printing postcards

4.5.3   For many years, the library has produced postcards of objects from their cultural heritage collections. These are produced by the university, and are available for sale in the library building, and through their online shop.

4.5.4   A new issue of postcards (and other similar objects such as correspondence cards) is created approximately once a year. This is a relatively informal process, with one member of staff with an interest in design discussing the opportunities with staff from the departments of the library holding cultural heritage material, in order to select objects and images for use.

4.5.5   As a department of a state university, the library is prohibited by law from making a profit. As such, income-generating activities are limited to cost recovery, including the full cost of producing and marketing the materials.

4.6   Reproduction fees

Context

4.6.1   The Austrian National Library (Österreichische Nationalbibliothek, ÖNB) is the central academic library for Austria (http://www.onb.at). The library holds approximately 8 million objects, and employs approximately 330 staff (FTE). The holdings include around 3 million books, but also special collections including manuscripts, incunabula, music archives, photographs and images, maps and globes.

4.6.2   The ÖNB has a semi-autonomous status as a scientific institution, but its activities are regulated by the Federal Ministry of Education, Arts and Culture (Bundesministerium für Unterricht, Kunst und Kultur). Due to legislation, history and mission, any income-generating service that ÖNB operates may not exceed cost-recovery, which can place constraints on any new services that

ÖNB considers starting. However, the basis for cost-recovery is the operation of a department within the library – it need not be calculated on a marginal per-transaction basis.

Reproduction fees

4.6.3   The ÖNB has a well-established photographic and image department, which has provided for many years prints of holdings, and licences for the use of holdings elsewhere. Historically, images of library holdings were created by photography of the original material – this has now been almost entirely replaced by scanning of the original source material direct to digital. The image library acts as the central digitisation service for the entire organisation.

4.6.4   Although the library is prevented from making a profit, as cost-recovery is considered for an entire activity, it is possible to charge reasonable commercial fees for image reproduction. As such, the library has a clear set of tariffs for different types of use. Charges for scans and prints are on a basic per-image charge, and in some cases the library charges different rates for personal use, for academic or scientific use, or for commercial use.

4.6.5   The library also generates income through licensing its content for publication elsewhere – this is also subject to a transparent fee structure. In some cases, the library develops special reproductions with third parties, for example producing limited-run facsimile editions of historical publications.

5 Views and concerns

5.1 Introduction

5.1.1 The collection of attitudinal data was not a principal aim of this project. However, we gave respondents the opportunity to share their views and concerns, and common issues are identified in this section.

5.2 Poor understanding of the PSI directive

5.2.1 Many respondents were not familiar with the directive 2003/98/EC, which is understandable given that it does not currently apply to them. There is significant confusion regarding what the implications of a loss of their current exemption would be. Particular areas of confusion encountered repeatedly include:

- a belief that material covered by third party IPR would be included;
- a belief that the directive would require material to be given away at no charge;
- a failure to recognise that assets such as metadata would be covered by the directive;
- a belief that the directive would only apply to material that was already digitised.

5.3 Applicability of the PSI directive to the cultural sector

5.3.1 Several respondents noted that the PSI directive as currently drafted would be difficult or impossible to apply to the cultural sector. There are concerns on two main points:

- Many re-uses of cultural materials are within mature markets with existing commercial frameworks. There is a feeling that the directive is drafted from the perspective of administrative government documents that have less well developed markets;
- The wording of the directive would be difficult to apply to cultural materials. One respondent expressed this well:

> "As an aside, it has to be noted that the actual re-use definition of the Directive seems to apply only to documents that were produced within a public task. For libraries, this would apply to (digital) surrogates or metadata generated by the Public Body, but not to the original materials collected. The mere collection of third-party materials does not stand on a par with documents generated by the public sector. However, this differentiation is easily blurred (*eg* reproduction of objects on demand comprises digital objects and analogue objects - the digital object may or may not be saved, the analogue copy is delivered to the customer)."

5.4 Concern about reduction of income

5.4.1 Given the current financial climate in particular, many respondents were deeply concerned about the potential impact on their income that inclusion within the directive would cause. These concerns ranged from the "big plans" organisations that have significant income streams from re-use through to "pocket money" organisations that have a sense of the potential value of their collections, but have not yet exploited them.

5.4.2   These concerns are primarily expressed in terms of the risk to future re-use: as discussed above (para 3.2.15 onwards), the revenue streams from re-use are often invested in enabling further re-use.

5.4.3   On a related note, a small number of institutions commented on the importance of the re-use income stream for supporting the costs of digital preservation for re-used content:

> "Generation of digital content does not necessarily mean that this content is then archived and available at no costs for an indefinite future, because long term archiving costs for digital items are not to be neglected."

5.4.4   More generally, several large/preeminent institutions described a tension between the public good of releasing material as widely as possible and the requirement to generate income to support their work. One respondent described this tension:

> "The biggest challenge is striking the balance between the Museum's role in public engagement - through the dissemination and interpretation of the collection - with the need to protect and exploit IP rights. IP offers a means to generate revenue, and this has to be considered as an option to help us increase the proportion of self-generated income and thus independence from central funding. On the other hand, unrestricted dissemination of images across the web can bring its own less tangible benefits in brand awareness, and indirect revenue."

5.4.5   Several respondents expressed the view that re-use should be free or cheap for private individuals and scholars, but that commercial re-users should pay more. This appears to be driven by a concept of fairness: if a company can make profit from the materials, they should share this profit with the institution that "owns" them.

5.5   Concern over administrative overhead

5.5.1   A range of institutions of all sizes expressed concerns regarding the administrative burden that inclusion within the directive would bring. Several specific issues were raised:

–   Clearing IPR is an expensive and time-consuming activity, and could potentially be required before any re-use request could be accepted. This is problematic for large and small institutions: the large institutions have very complex collections whereas the small institutions are lacking staff skill or effort to undertake rights clearance.

–   Managing third-party re-use is often a complex and lengthy procedure that involves IPR clearance, contractual negotiations, due diligence and other activities. It would not be possible to respond to these kinds within the timeframe described in the directive.

–   There is a concern that some institutions would receive a large volume of re-use requests from members of the public, and that responding to these requests would be a significant use of staff effort.

A Sample statistics

A.1 Introduction

A.1.1 This annex contains sample-level statistics for the data collected during this study. As set out in the main body of the document, it is important to note that these are not representative.

A.1.2 This section only includes multiple-choice questions: open questions are not included, these are analysed within the main document – as discussed there, drawing statistics from these numbers is likely to be misleading.

A.2 Part 1

How would you classify your organisation?		
Answer Options	**Response Percent**	**Response Count**
Museum	31.3%	20
Library	32.8%	21
Archive	17.2%	11
Performing arts organisation	4.7%	3
Other (please describe)	14.1%	9
answered question		**66**
skipped question		**0**

What material do you hold (please select all that apply)?

Answer Options	Physical objects	Digital objects	Digital surrogates	Metadata	Contextual content	Response Count
Public records and archival documents of any kind (including genealogical records)	54	23	33	40	23	55
Databases	31	42	19	41	18	56
Photographs and images	58	38	47	48	31	62
Paintings and/or drawings	46	16	34	39	23	49
Books	62	24	28	47	22	64
Periodical articles	47	20	20	36	14	51
Newspapers and magazines	56	22	24	39	14	58
Other printed materials	44	15	24	32	13	47
Sculpture	25	5	19	23	15	27
Historical objects	40	7	27	27	18	43
Audio or Moving picture (video/film) recordings	46	27	26	33	14	50
Other (please describe)						18
answered question						**70**
skipped question						**6**

Does your organisation undertake any re-use activities?

Answer Options	Response Percent	Response Count
Yes	72.9%	43
No, but we are planning to	16.9%	6
No, and we do not intend to	10.2%	10
answered question		**59**
skipped question		**7**

A.3 Part 2

How would you classify your organisation?		
Answer Options	Response Percent	Response Count
Museum	31.4%	11
Library	31.4%	11
Archive	17.1%	6
Performing arts organisation	2.9%	1
Other (please describe)	17.1%	6
answered question		35
skipped question		0

What proportion of your holdings is covered by 3rd-party Intellectual Property Rights (where somebody other than you owns the Intellectual Property)?		
Answer Options	Response Percent	Response Count
None - either we own the IPR for all of our holdings, or it is out-of-copyright	2.9%	1
Some individual items	14.3%	5
Some collections	51.4%	18
Most collections	28.6%	10
All of our holdings	2.9%	1
We do not know	0.0%	0
answered question		35
skipped question		0

For your holdings that are in scope (so not covered by 3rd-party IPR), what proportion is discoverable:

Answer Options	Almost everything (>90%)	Most things (51-90%)	Some things (10-50%)	Almost nothing (<10%)	Response Count
Through your website	6	8	8	11	33
Through electronic catalogues available at your institution	12	6	10	5	33
Through physical catalogues	8	12	8	5	33
Via consultation with a staff member	18	8	3	4	33
Any other mechanism					5
answered question					33
skipped question					2

Does your website provide information on how one can request materials for re-use?

Answer Options	Response Percent	Response Count
The licences are available online	12.1%	4
Detailed information is available online	36.4%	12
There are details of who to contact for information	21.2%	7
It depends on the collection	18.2%	6
No	12.1%	4
answered question		33
skipped question		2

How do potential re-users discover what it would cost?

Answer Options	Response Percent	Response Count
We don't charge fees for re-use of our content	9.1%	3
Our fee structure is posted on our website	33.3%	11
Our fee structure is available on request	12.1%	4
We negotiate all re-uses individually	18.2%	6
Other (please specify)	27.3%	9
answered question		33
skipped question		2

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How do you decide how much to charge?

Answer Options	We charge a commercial rate	We charge for cost recovery	We charge a token fee	It depends on the customer	We do not charge	Response Count
Always	6	8	1	9	3	26
For some collections	7	9	4	12	7	21
Never	2	0	1	5	2	10
answered question						32
skipped question						3

Do you ever enter into exclusive licenses with re-users of your content?

Answer Options	Response Percent	Response Count
No	75.8%	25
Yes - for individual items	6.1%	2
Yes - for entire collections	6.1%	2
Other (please specify)	12.1%	4
answered question		33
skipped question		2

How long does it take you to respond to a request to re-use your content?

Answer Options	Response Percent	Response Count
It's immediate - licences (and payment if necessary) are handled online automatically	12.1%	4
Less than 20 working days	81.8%	27
21 working days or longer	3.0%	1
We don't receive any requests	3.0%	1
answered question		33
skipped question		2

Direct re-use (direct to end-users)				
Answer Options	Yes	No	No - but we're planning to	Response Count
Downloads of files of digital items - for a fee or free of charge (images, documents, music files, video)	22	4	2	28
Timed access, rental or subscription to collections of digital copies or database of content	7	19	1	27
Sale of customized collections made from digitized copies of items in your collection	15	12	1	28
Sale of physical reproductions through your online store	16	9	3	28
Sale of physical reproductions through your on-site shop	16	10	1	27
Sale or licensing of educational and/or contextual materials to support our core collection	13	13	2	28
Other (please specify)				5
answered question				29
skipped question				6

Re-use activities via a third party (the institution licenses rights to use its content or other data to a third party, who in turn adds value and brings it to market)				
Answer Options	Yes	No	No - but we're planning to	Response Count
Licensing of files of digital copies of items in your collection for use in film, publication, broadcast, advertisement, merchandise, etc..	18	10	2	30
Licensing of ancillary content, commentary, or teaching tools developed to contextualize your collection	5	22	3	30
Licensing of rights to use a database (of content, of metadata, of usage statistics, etc..)	7	20	3	30
Other (please specify)				6
answered question				30
skipped question				5

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What proportion of this income was from third-party re-use?													
Answer Options	0% - we only sell directly to end-users	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%	Unknown	Response Count
2005	12	3	1	0	0	1	0	0	1	0	3	9	30
2009	12	3	2	0	0	0	0	0	2	2	2	7	30
answered question													30
skipped question													5