



# **Economic and Social Impact of the Public Domain in the Information Society**

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***7<sup>th</sup> Communia Workshop***

***1<sup>st</sup> February 2010***

***Mark Isherwood – Rightscom***

# Project Objectives (1)

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- ▶ To estimate the number of works in the public domain in the EU.....for published works, such as literary or artistic works, music and audiovisual material
- ▶ To calculate approximately the levels and ways of use of the public domain material and to highlight the main users in the above mentioned sectors.....identify what is the number and percentage of public domain material that national libraries and national archives hold amongst their collections

# Project Objectives (2)

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- ▶ To estimate the current economic value of public domain works and estimate the value of the works that in the next 10-20 years are to be released into the public domain and determine any change in its value whilst under copyright and once it is on the public domain
- ▶ [What are].....the consequences of applying different sets of criteria aiming at extending or shrinking the public domain describing the different potential scenarios through a sensitivity analysis

# Project Objectives (3)

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- ▶ To identify and analyze the current practices for re-use of public domain content held by European cultural institutions and assess their capacity to implement the principles for re-use as established in the Public Sector Information (PSI) Directive
- ▶ To identify and analyze current available mechanisms for voluntary sharing of content and to ascertain the pro's and cons of each mechanism, highlighting the degree of use of the most successful ones and their impact based on relevant indicators

# PSI Directive key findings (1)

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- ▶ Many cultural institutions are concerned that a inclusion in the Directive will impose higher costs on a relatively small income base
- ▶ The costs of licensing or enabling re-use appear in many cases to exceed the income generated raising the question as to whether free access would provide greater economic value and stimulate more re-use
- ▶ Loss of revenues relating to image libraries and/or other sources of income remains a fear for many cultural institutions

# PSI Directive key findings (2)

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- ▶ The provisions regarding transparency of pricing and anti-competitive practices are not as yet uniformly understood
- ▶ The re-use licensing requirements of the Directive represent a major hurdle because few have extensive content licensing services
- ▶ Switching the focus of PSI provisions to types of content rather than types of institutions might be beneficial

# PSI Directive conclusions

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- ▶ The potential benefits of coming within the scope of the Directive not yet articulated to most decision makers
- ▶ This situation will need to be monitored over the next few

# Use and re-use – a definition

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- ▶ *Use* refers to a primary use such as reading a book, performing a score, watching a film, looking at a photograph or listening to a recording
- ▶ *Re-use* involves some form of transformation or use in another context
- ▶ Revenue is not a driver of whether an activity is a use or a re-use

# Use/Re-use key findings (1)

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- ▶ Little or no information that compares the level of usage of collections in their digital form compared to usage in their purely physical form
- ▶ Where usage information does exist, it is rarely separated out to identify usage information for public domain material versus copyright material
- ▶ When works are in copyright, it is clear that significant time has to be spent by institutions negotiating rights licences from third parties

# Use/Re-use key findings (2)

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- ▶ Most educational institutions think using public domain works saves them money
- ▶ Successful re-use examples rely on the vision of an individual determined to develop the opportunity
- ▶ Whatever the nature of the enterprise, resources of some sort are required whether this is human effort or seed money as in the case of a number of European projects

# Use/Re-use key findings (3)

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- ▶ Some re-use of public domain material has responded to a need not being satisfied by commercial organisations
  - ▶ Sheet music sites

# VSS key findings (1)

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- ▶ Voluntary schemes have an important role to play in increasing the availability of content that can be used, re-used and repurposed
- ▶ Voluntary sharing schemes are still only known to a minority of authors
- ▶ Because they can deal with current material, voluntary sharing schemes have the potential to be a more significant force than the involuntary public domain in the creation of cultural and social value

# VSS key findings (2)

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- ▶ Mechanisms for voluntary sharing are developing rapidly with new licences and tools
- ▶ The dominant schemes are Creative Commons and the GNU General Public Licence
- ▶ Creative Commons is not yet mainstream
  - ▶ The 100 million Creative Commons-licensed images on Flickr still represent only 0.3% of Flickr's total collection of images

# VSS key findings (3)

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- ▶ There are some significant obstacles to the acceptance of many voluntary sharing licences
  - ▶ Some flexibility needed if they are to be more widely adopted
- ▶ Ensuring that the applicable licence can in some way be embedded in the work licensed is important
  - ▶ Many works do not have their licence terms available once they have been separated from their original environment

# VSS conclusions

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- ▶ Voluntary sharing schemes are a relatively new phenomenon, and there are still many legal, technical and ethical issues under discussion
- ▶ A statistical research project that aimed clearly at identifying usage in the field would be extremely valuable

# General recommendations (1)

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- ▶ Further education required within some cultural institutions to increase understanding and adherence to the provisions of the PSI Directive regarding transparency of pricing and anti-competitive practices
- ▶ Promotion of voluntary sharing schemes in general may be required as a force for the creation of cultural and social value
  - ▶ A potential bridge between licensing based models and the public domain

# General recommendations (2)

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- ▶ Further investigation of the obstacles that exist (whether real or perceived) for the widespread adoption of some voluntary sharing schemes may be required
- ▶ Further research to make the legal, economic and cultural case for the adoption across Europe of the US model regarding the non-copyright status of government material

# General recommendations (3)

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- ▶ Some more precise results regarding the value of the public domain may be achieved by analysis of specific, individual case studies, rather than looking at the public domain in its totality
- ▶ There may be a case for the creation of some form of data gathering unit that works with cultural institutions
  - ▶ Given the difficulties encountered in gathering the right type of data and in suitably large amounts
  - ▶ Thus enabling these to be monitored on an on-going basis



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