

## Discussion Paper Extending the Europeana Licensing Framework

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### 1. Introduction

This paper attempts to provide an overview of a number of separate but interlinked efforts to extend the *Europeana Licensing Framework* – the framework that governs the copyright aspects of Europeana. This paper summarises a number of ideas with regards to such extensions and is intended to start a discussion with key stakeholders with the objective of validating approaches to these extensions. The author is the work package lead for the Europeana Awareness work package that is tasked with overseeing the *Europeana Licensing Framework*. The ideas in this paper are based on a number of informal discussions with key stakeholders but do not represent official positions of the Europeana Foundation or any of the governing bodies of the Europeana project.

#### 1.1 The Existing Europeana Licensing Framework

The existing *Europeana Licensing Framework*<sup>1</sup> is built on three design principles. One of them applies to how Europeana deals with metadata and another applies to how Europeana deals with content (the Digital Objects that are described by the metadata that is published by Europeana). The latter establishes how Europeana deals with previews that are displayed on Europeana. This framework has been developed based on the fact that Europeana is a metadata aggregator and not a content aggregator and does not host the actual Digital Objects that can be accessed via the services provided by Europeana:

- **All metadata that is published by Europeana must be available under the same terms that encourage re-use.** This design principle has been implemented by publishing all Europeana metadata under the terms of the CC0 Universal Public Domain Dedication. Data providers grant Europeana the right to do so via the *Data Exchange Agreement* that must be concluded before they contribute metadata to Europeana. Likewise The

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<sup>1</sup> In this paper the term *Europeana Licensing Framework* applies to the overall framework that governs the relationship between Europeana, its data providers and its users. This includes the Europeana Data Exchange Agreement, the Europeana Terms for User Contributions and also the Europeana Public Domain Charter. All information about the *Europeana Licensing Framework* can be found in a special section of the Europeana Professional website (<http://pro.europeana.eu/web/guest/licensing>). A subset of this information was published in October 2011 in a brochure with the same title ([http://pro.europeana.eu/c/document\\_library/get\\_file?uuid=b16bdaf6-4e53-4f58-968a-9d4943a5d297&groupId=858566](http://pro.europeana.eu/c/document_library/get_file?uuid=b16bdaf6-4e53-4f58-968a-9d4943a5d297&groupId=858566)).

Europeana Terms for User Contributions<sup>2</sup> establish that all metadata contributed by users can be published by Europeana under the terms of CC0.

- **Each Digital Object that is available via Europeana must carry its own rights statement.** This design principle has been established by introducing a mandatory rights field ('edm:rights') into the *Europeana Data Model*. Each metadata record needs to contain a rights statement (taken from a limited list of allowed statements<sup>3</sup>) that describes the rights status of the Digital Object described by that metadata record.
- **Previews are treated as an instance of the Digital Objects from which they are derived.** The *Europeana Licensing Framework* assumes that any previews provided to Europeana are covered by the same rights statement as the Digital Objects to which they belong. As a result, the preview files are not covered by the CC0 Universal Public Domain Dedication that applies to metadata published by Europeana.

These design principles (and the first two in particular) are primarily influenced by the objective to minimise operational complexity for Europeana and to provide users (both human and machine) with easy-to-process information regarding the rights status of information they encounter on/via Europeana. As a result of this, they place limitations on how data providers can manage rights in the information that they make available via Europeana. These limitations are important drivers for some of the extensions discussed in the remainder of this document.

In spite of these limitations, the *Europeana Licensing Framework* is proving to work very well. While the decision to introduce the *Framework* in October 2011 was highly controversial (primarily related to the decision to publish all metadata under CC0), the adoption has not led to any significant loss of metadata and/or data providers from Europeana.<sup>4</sup> Europeana is currently involved in a catch-up operation to obtain rights statements for metadata records that had been contributed before the rights statements became mandatory. This is progressing well: in March 2013, 70% of all 26.8 million metadata records in Europeana contained a rights statement (up from 50% in August 2012). 21% of all Digital Objects that are available via Europeana carry a public domain rights statement and another 9% are available under one of the Creative Commons licences. This means that 30% of all Digital Objects available via Europeana are clearly labelled for re-use by third parties.

This highlights a unique (to our knowledge) aspect of the *Europeana Licensing Framework*. The rights statements provided by cultural heritage institutions (the data providers) are checked by an independent entity (Europeana) to ensure that the data providers do not falsely claim rights to Digital Objects that actually reside in the public domain.<sup>5</sup>

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<sup>2</sup> <http://www.europeana.eu/portal/rights/terms-for-user-contributions.html>

<sup>3</sup> <http://pro.europeana.eu/web/guest/available-rights-statements>

<sup>4</sup> In total, three existing data providers have opted not to sign the *Data Exchange Agreement* (DEA) and have stopped contributing metadata to Europeana.

<sup>5</sup> This mechanism exists to ensure that Europeana and its data providers comply with the principles of the Europeana Public Domain Charter. See <http://www.publicdomaincharter.eu/>.

## 1.2 Licensing Framework Review

The *Europeana Licensing Framework* is currently being reviewed. This review is primarily intended to identify issues and to address them. The review is part of WP5 of the Europeana Awareness project. Preliminary work has been done in the 'edm:rights' Task Force of the Europeana Network that was established to assess whether the current list of rights statements that can be used with 'edm:rights' is in line with the requirements of Europeana and its data providers. This review has so far identified the following issues:<sup>6</sup>

- There is a need for an additional rights statement that can be used with works that have been identified as orphan works in accordance with Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works.<sup>78</sup>
- There is a need for an additional rights statement for use with digital representations of public domain objects that have been digitised in a public-private partnership wherein the parties have agreed to contractual limitations that prohibit commercial re-use by third parties.
- There is a need for a mechanism (a new metadata field) that can be used to indicate the expiry date (year) of a rights statement. This field can be used to record when a Digital Object will become part of the public domain.
- There is a need for guidelines on how to deal with situations in which the actual object is in the public domain, but the Digital Object is covered by copyright (as the result of the digitisation process).
- A number of data providers have indicated that they would want to provide metadata related to geo-locked Digital Objects that can only be accessed from a particular territory (generally the jurisdiction of the data provider). Currently, Europeana does not accept metadata related to geo-locked Digital Objects.
- There are a number of other small communication-related issues for which the wording of the Framework can be improved.

In addition to the above issues (the fact that new rights statements can be added to the list of existing rights statements had been foreseen when the *Europeana Licensing Framework* was designed), there are three areas that require a more fundamental rethinking of parts of the *Europeana Licensing Framework*: opening up parts of the *Europeana Licensing Framework* to

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<sup>6</sup> The review is ongoing and needs to result in a set of recommendations that are delivered to the European Commission by the end of June 2013. The issues listed here are issues that have been encountered so far and may or may not be included in the review recommendations.

<sup>7</sup> This directive creates a special legal status for works that have been identified as orphans after a diligent search, and as such, these works require a separate rights statement that is more specific than the general 'unknown rights' statement.

<sup>8</sup> In addition to this, Europeana is currently involved in discussions with the European Commission and the Office for the Harmonisation of the Internal Market to see if Europeana can provide parts of the infrastructure that powers the Single European Database that is foreseen in the directive. If there is a role for Europeana this may result in additional requirements for the *Europeana Licensing Framework*.

similar projects; extending the Framework to handle rich, text-like metadata;<sup>9</sup> and providing a content re-use framework.

### 1.3 Opening the Framework for Other Aggregation Platforms

The current *Europeana Licensing Framework* is a mix of agreements (the Europeana Data Exchange Agreement (DEA)<sup>10</sup>, the Europeana Terms for User Contributions (UCC)<sup>11</sup> that have been specifically drafted for Europeana, rights statements that have been specifically drafted for Europeana, rights statements (licences) that are provided by Creative Commons and usage guidelines that have been specifically drafted for Europeana.

We currently have four Europeana-specific rights statements and two Europeana-specific usage guidelines:

- Rights Reserved – Free Access rights statement
- Rights Reserved – Restricted Access rights statement
- Rights Reserved – Paid Access rights statement
- Unknown copyright status rights statement
- Europeana Usage Guidelines for public domain works
- Europeana Usage Guidelines for Metadata

All of these have been drafted to answer a specific need identified as part of establishing the *Europeana Licensing Framework*, all of them are hosted by Europeana (in the Europeana namespace) and all of them can be used as rights statements by others.

With the emergence of undertakings similar in nature to Europeana, chief among them the Digital Public Library of America (DPLA),<sup>12</sup> the question arises whether it is desirable to have rights statements that are (a) specific to Europeana and (b) reside in the Europeana namespace.

From an interoperability perspective, it would be desirable for similar projects to use the same rights statements for Digital Objects with the same underlying rights status. For example, a Digital Object described on Europeana that is freely accessible but may not be re-used will be labelled with 'Rights Reserved – Free Access' on Europeana and it is desirable for objects with the same rights status available via the DPLA to carry the same rights statement.

This works well with the rights statements provided by Creative Commons. Given that the Europeana rights statements are Europeana-branded and reside in the europeana.eu namespace, they are not really optimised for re-use by projects other than Europeana. Given this, it has been suggested to move the current Europeana rights statements to a 'neutral' namespace that is jointly maintained by Europeana and the DPLA. This namespace could host rights statements that are used by both parties (for example, a 'Rights Reserved – Free Access' statement) but also rights statements that can only be used by one of the projects (for example,

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<sup>9</sup> This refers to extensive descriptions of Digital Objects or scholarly texts related to them.

<sup>10</sup> <http://pro.europeana.eu/documents/900548/8a403108-7050-407e-bd00-141c20082afd>

<sup>11</sup> <http://www.europeana.eu/portal/rights/terms-for-user-contributions.html>

<sup>12</sup> <http://dp.la/>

the orphan works statement mentioned in the preceding section which only applies to the member states of the EU and thus does not make sense for the DPLA).

A first step in this process is to examine whether there is indeed an intention to collaborate on this. Given the clear benefits of interoperability and existing contacts between the two projects, this appears likely. Once the intention has been established, it needs to be decided who maintains the neutral namespace. In addition to maintaining it as a joint project, we should also ascertain whether a third party with experience in this areas (such as Creative Commons<sup>13</sup>) can contribute to this.

#### 1.4 A Content Re-use Framework

The Europeana Creative project, which started in February 2013, has the creation of a content re-use framework as one of its core objectives. The project attempts to increase creative re-use of cultural heritage content that is available via Europeana by making a subset of these available via the content re-use framework.

The content re-use framework has still to be specified but based on the initial discussions within the Europeana Creative consortium, the following has been identified as a likely approach:

- The content re-use framework will need to work on top of the *Europeana Licensing Framework*. Making Digital Objects available via the content re-use framework will be voluntary on an opt-in basis.
- The content re-use framework will make available (via a separate API, a facet on the portal or similar mechanisms) Digital Objects that are available via Europeana and meet the following conditions:
  - The metadata record for the object contains a direct link to the Digital Object itself (as opposed to a page where the object is available).<sup>14</sup>
  - The Digital Object meets minimum technical quality requirements (still to be defined per type of object, one obvious example would be a minimum pixel count for still images).
  - The Digital Object is available under a rights statement that allows re-use of the object (as opposed to rights statements that only allow access).

The Europeana Creative project has also indicated the need for conditional rights statements (such as 'the Digital Object may only be re-used by educational users' or 'the Digital Object may only be re-used after condition x has been met'). The current list of rights statements for 'edm:rights' does not include such rights statements.

Instead of adding conditional rights statements to the list of allowed statements for 'edm:rights' (which would mean that they could also be applied to Digital Objects that do not meet the above requirements), it has been suggested to create a new metadata field to store such conditional

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<sup>13</sup> <http://www.creativecommons.org/>

<sup>14</sup> This could either be the link that is currently used (in the 'edm:isShownBy' field) or a link in a new metadata field ('edm:contentReuseResource' or similar) that would contain a link to a cached copy of the Digital Object in its optimal quality stored in the cloud.

rights statements.<sup>15</sup> If a metadata record meets the conditions outlined above and no conditional rights statement is provided, the new field would contain a copy of the rights statement in 'edm:rights'. This additional rights field would serve two primary functions:

- A value in this field identifies the Digital Object described in the metadata record as being available via the content re-use framework.
- The rights statement in the field establishes the conditions for the re-use of the Digital Object.

The syntax of such conditional rights statements still needs to be determined (in this context it has been suggested to take a look at the Rights Reference Model<sup>16</sup> published by the Linked Content Coalition<sup>17</sup>). With regards to the technical implementation, the presence of conditional rights statements requires the ability to enable selective access to the Digital Objects reference by the content re-use framework (for example, via special classes of (API) users).<sup>18</sup>

To ensure that the content re-use framework does not interfere with the existing *Europeana Licensing Framework*, the following design principles will need to be established:

- All access-control mechanisms for Digital Objects that are not publicly available need to be implemented at the storage level and not at the metadata level. All metadata that is published by Europeana (including the URLs of restricted access Digital Objects) are published by Europeana under the terms of CC0.
- Each metadata record ('ore:Aggregation') in Europeana needs to contain a link to at least one publicly available Digital Object. This means that Europeana will not publish metadata related to cultural heritage objects that are not publicly available. The content re-use framework enables data providers to add additional Digital Objects that are not publicly available.

If implemented in this way, the content re-use framework could exist on top of the *Europeana Licensing Framework*, effectively becoming a voluntary extension of the Framework, without interfering with the operation of Europeana as a metadata aggregator. Digital Objects that are available via the content re-use framework can reside on the websites of the original data providers or they could be cached in the Europeana Cloud infrastructure that is currently being developed.

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<sup>15</sup> Including multiple rights statements per metadata record. It is very likely that we need to support situations where the Digital Object can be re-used under combinations of conditional re-use statements. For example, a combination of a CC-BY-NC licence and a rights statement that allows commercial re-use for educational users.

<sup>16</sup> [http://media.wix.com/ugd/bff7bc\\_739b7aa7f0d4b4b2c8e7929aa3f07868.pdf](http://media.wix.com/ugd/bff7bc_739b7aa7f0d4b4b2c8e7929aa3f07868.pdf)

<sup>17</sup> <http://www.linkedcontentcoalition.org/>

<sup>18</sup> Note that the content re-use framework would only enable the possibility to provide selective access; the actual access mechanisms supporting this would need to be developed as part of WP2 of Europeana Creative.

## 1.5 Extending the Framework to Handle Rich Metadata

The final extension of the Framework is related to the Europeana Cloud project<sup>19</sup>. This project will not only work on a cloud-based storage infrastructure but will also provide tools for researchers. Given the focus on research, the project needs to provide a way of making rich metadata available via Europeana. As discussed above, the *Europeana Licensing Framework* requires that all metadata be published under CC0. This has resulted in some data providers removing more extensive metadata fields (such as long descriptions) from Europeana.

In order to encourage data providers to make rich metadata (such as long-form descriptions, academic papers and other non-factual materials) available, the *Europeana Licensing Framework* will need to be able to ensure that such materials can be made available under rights statements other than CC0.

However, allowing data providers to specify separate conditions for richer metadata would violate the first design principle of the *Europeana Licensing Framework* ('All metadata that is published by Europeana must be available under the same terms'). As a result, it would create unwanted operational complexities and would undermine the effort to provide straightforward rights information to end-users.

Given these drawbacks, it has been suggested to treat rich metadata as digital text documents which are treated like all other Digital Objects. These digital text documents will be linked to the primary Digital Objects that they relate to (the *Europeana Data Model* already allows relationships of this type between different Digital Objects). Being Digital Objects, these digital text documents need to carry their own rights statements (taken from the same list of available rights statements described above). This approach could also be combined with the conditional rights statements proposed for the content re-use framework, effectively enabling scenarios wherein access to rich metadata can be limited to accredited researchers.<sup>20</sup>

Implementing this approach would preserve some of the fundamental principles of the *Europeana Licensing Framework* but will likely require substantial modifications of how related Digital Objects are presented on Europeana.

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<sup>19</sup> <http://pro.europeana.eu/web/europeana-cloud>

<sup>20</sup> Note that if this scenario needs to be supported, then the first policy question identified in the preceding section has been answered affirmatively.