



DELIVERABLE

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D2.4 Report and recommendations on IPR



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This deliverable contains original unpublished work except where clearly indicated otherwise. Acknowledgement of previously published material and of the work of others has been made through appropriate citation, quotation or both.



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Executive summary

This deliverable forms a part of CARARE WP2 Preparing and enabling as described in the Description of Work (DoW): “A review of any IPR issues in the content to be harvested will be completed to inform work by the Europeana IPR cluster”.

The clear expression of rights in digital content is needed to enable citizens to access and re-use the material discovered through Europeana, and is an important requirement for CARARE. Much of the content identified by CARARE partners is made available to users under the terms of a licensing policy. Appropriate licensing policies create trust on the side of both producers and consumers; they define clear terms and conditions of use for the material, which is important even for freely accessible online content.

Among the main results of the CARARE survey the content providers reported that the objects held in 44 collections and the metadata for 24 collections were in the public domain.

The Creative Commons licence framework has been widely discussed in the context of the clarity with which it allows copyright holders to describe to users the conditions under which they may use content, 12 CARARE content providers were using such a licence, according to the results of the project's survey. Individual content providers within the CARARE consortium have also developed their own licences to permit re-use of their data, for example the Archaeology Data Service Common Access agreement.

A series of workshops, with representatives, from the network were held to produce the new version of the Europeana Data Providers and Aggregator Agreements. These were organised by EuropeanaConnect WP4, the Europeana Licensing Framework. The workshops reviewed the limitations of the current Data Provider & Aggregator Agreements in the context of Linked Open Data, use of Wikipedia and the search engines as promoters of Europeana and the Content Provider & Aggregator sites.

A major sentiment arising from this work was that the majority felt that the non commercial clause needed to be removed in the interests of being able to publish metadata as Linked Open Data. An assessment of risks and rewards was made as a result of this work. The Europeana Council of Content Providers and Aggregators has also formed a legal working group which will deal with the legal obstacles involved in contributing to Europeana.

A draft version of a revised Data Provider and Aggregator Agreement was circulated to the Europeana network in December 2010, for comment and signature in 2011

Other specific IPR issues for CARARE covered by this document include data re-use, geospatial data and IPR in 3D/VR models.

It is recommended that CARARE adopts a risk management approach to ongoing IPR issues

1. Introduction

This deliverable forms a part of CARARE WP2 *Preparing and enabling* as described in the Description of Work (DoW):

“A review of any IPR issues in the content to be harvested will be completed to inform work by the Europeana IPR cluster”.

The work involved incorporates the following WP2 tasks from the DoW

“4.2 MDR will analyse the results of the survey completed by the Europeana IPR cluster in 2009 and identify any gaps relating to IPR in the archaeology/architecture domain or 3D/VR content.

4.3 MDR will report and make recommendations concerning any further work required for IPR in digital content (Month 12) (D2.4)”.

The clear expression of rights in digital content is needed to enable citizens to access and re-use the material discovered through Europeana, and is an important requirement for CARARE. It is important even though the objective of Europeana is to allow open access and much of the content provided by CARARE is in the public domain or with rights cleared. Describing the rights attached to the content, as part of its metadata, is essential to assure users of which uses are permitted.

There is consequently a need for a Licensing Framework for Europeana and a set of tools to address licensing issues and implement clear declarations of the rights status and permissions associated with Europeana content. In the longer term, it may be necessary for Europeana to introduce remuneration processes to enable access to charged-for content (e.g. publishers, high-resolution images, etc).

The general risks and rewards associated with placing metadata and content on the web were described in a presentation by Prof Charles Oppenheim¹ at the Europeana Plenary Conference, Amsterdam in October 2010. The authorisation of the copyright owner is required for:

- copying a work;
- issuing copies of the work to the public (including placing a copy of the work on the Internet);
- performing, showing or playing a work to the public;
- communicating the work to the public or any sub-set of the public;
- adapting the work or doing any of the above in relation to an adapted work.

Authorisation is not however required if any of the following conditions apply:

- the work is out of copyright;
- there is explicit permission from the rights holder;
- permission has been granted via a licensing scheme, including Creative Commons;

¹ http://group.europeana.eu/c/document_library/get_file?uuid=72940bb0-fec3-4885-8b29-7ffbee7b9694&groupId=255462

- the work has been created by a member of staff or under contract with IP assigned or permission granted;
- the actions are permitted under an exception to copyright.

Important issues are associated with:

- media rich content (multiple layers of rights, multiple rights holders, multiple permissions are often required);
- ownership of particular rights;
- and Orphan Works;
- rights for metadata (as distinct from the content to which they refer)

2. IPR in CARARE

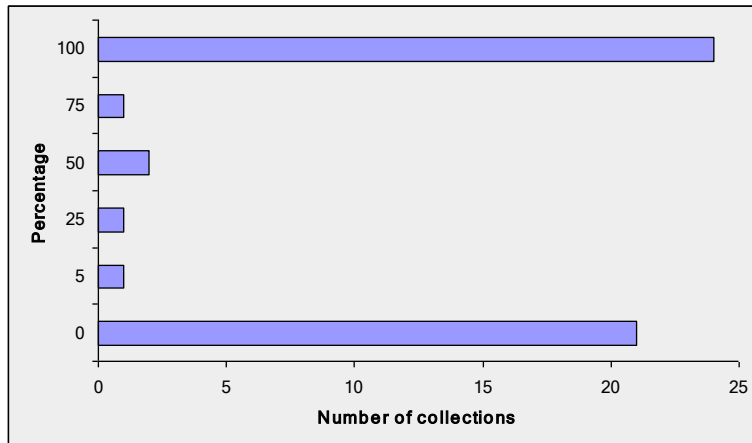
It is an objective of CARARE to support work to establish the IPR framework for Europeana content. It will identify any gaps relating to IPR in the archaeology/architecture domain or complex multimedia objects such as 3D/VR models and will contribute to testing, evaluating and promoting the outcomes of work undertaken by the Europeana Project Group on licensing frameworks and IPR tools.

CARARE D2.2.2 *Report on Content Review*, based on a survey of all existing content providers in the CARARE BPN found that not all of the associated metadata is in the public domain. Hence, there is a need to ensure that the metadata is available under an appropriate licence before the data is harvested. In order for the content to be represented on Europeana, any rights or licences must be clearly expressed. In order for metadata to be harvested and re-used by CARARE and Europeana it must be available under an appropriate form of licence

Much of the content identified by CARARE partners is made available to users under the terms of a licensing policy. Appropriate licensing policies create trust on the side of both producers and consumers; they define clear terms and conditions of use for the material, which is important even for freely accessible online content. Among the main results of the CARARE survey:

- content providers reported that the objects held in 44 collections and the metadata for 24 collections were in the public domain. Some uncertainty regarding public domain content was apparent amongst CARARE content providers. Clarification of the term of public domain was provided as meaning "free of copyright or fee based licenses" rather than "publicly accessible online".
- 40 collections were covered by some form of fee-based license, while 62 collections used a free licence of some sort¹² of these using some form of creative commons license.

The following table from the survey illustrates the percentage of the metadata connected to the objects that are in the public domain, according to collections.



It may not be possible to have complete confidence that responses in the content survey on whether content or metadata are in the public domain are 100% in view of the uncertainty over definitions described above.

3. The Public Domain

The Public Domain is generally defined as cultural material that can be used without restriction, absent of copyright protection. A Public Domain Charter, accompanied by a Public Domain Mark and Usage Guidelines², has been developed by Europeana in conjunction with Creative Commons³ on the basis that “memory organisations should take upon themselves a special role in the effective labelling and preserving of Public Domain works. [and] they need to ensure that works in the Public Domain are accessible to all of society, by making them available as widely as possible”

The main usage guidelines are:

- to give credit where it is due
- to protect the reputations of authors and creators
- show respect for the original work
- be culturally aware
- share knowledge
- support efforts to enrich the public domain and to preserve public domain marks and notices.

² http://group.europeana.eu/c/document_library/get_file?uuid=0d721113-26c3-4b7d-93df-c521ddf3021d&groupId=255462

³ http://group.europeana.eu/c/document_library/get_file?uuid=7b904e97-d85b-4ba3-808b-736b84a9fe1f&groupId=255462

4. Creative Commons and other licence types

The Creative Commons licence framework has been widely discussed in the context of the clarity with which it allows copyright holders to describe to users the conditions under which they may use content. For example, a Creative Commons Attribution Non-Commercial Share Alike licence lets people use content as long as they credit the copyright holder and license any new material under the same terms.

Of the institutions involved in CARARE who indicated that they used Creative commons licenses the distribution of licence types is shown in the table below. It may be observed that non-commercial Creative Commons licences are those most favoured.

Answer Options	Response Count
Attribution	2
Attribution-NoDerivs	0
Attribution-NonCommercial-NoDerivs	5
Attribution-NonCommercial	2
Attribution-NonCommercial-ShareAlike	3
Attribution-ShareAlike	0

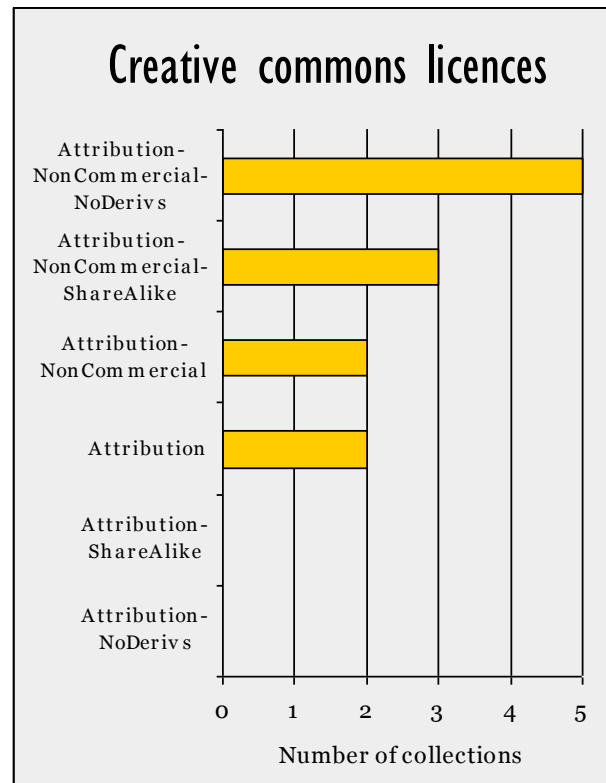
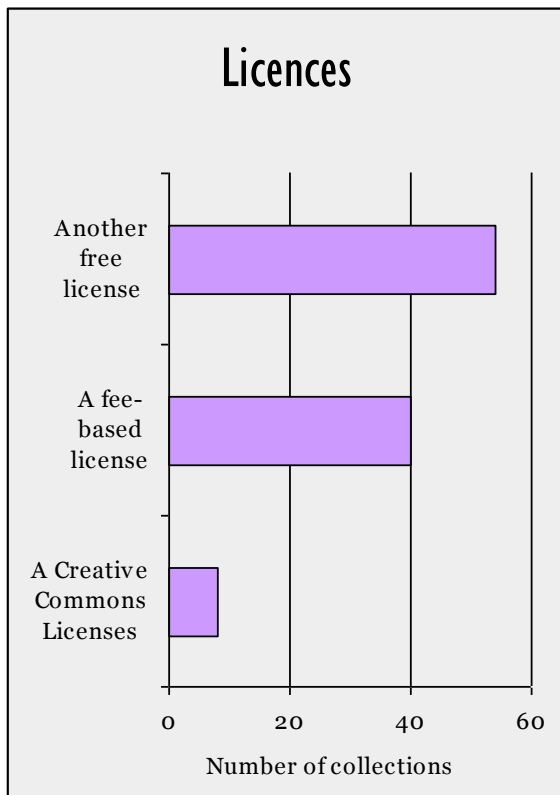
Individual content providers within the CARARE consortium have also developed their own licences to permit re-use of their data, for example the Archaeology Data Service Common Access agreement:

“asks that users be fair and reasonable in their use of the data supplied through the ADS. The ADS levies no charges, there are no documents to sign, and none will be applied retrospectively. We do not hold information on specific users. In return we ask that you acknowledge the source and copyright of the data you use, that you tell us of any errors you find in it, and that if you undertake any work based substantially upon it, that you tell us about it and send us a copy of any subsequent publication. The data must not be sold or supplied to a third party.

The data should only be used for teaching, learning, and research purposes. By teaching, we mean directed teaching undertaken with a designated tutor in a formal setting. By learning we mean self-directed study, whether or not attached to an educational institution, including the educational activities undertaken in museums, libraries and cognate institutions. By research we mean any work undertaken for the advancement of archaeological knowledge and/or the understanding of the historic environment. Such work may be commercially sponsored or it may be funded by academic bodies or learned societies, or it may be unsupported: but it is a condition of use that the results are placed in the public domain and are made freely available for others to use according to the normal principles of professional and academic practice.”

Other CARARE content providers have similar licences in place (see Figs 1 and 2 below), reflecting a common wish to acknowledge the years of scholarship by many different people (archaeologists, architects, collectors, analysts, field workers and laboratory scientists) involved in advancing knowledge about sites which is expressed in analytic reports and visualised in 3D/VR models etc.

There may be a complex mesh of moral rights and copyrights attached to the output from a major programme of research, but researchers and content providers usually wish to make these materials available for people to use.



Types of licence used by CARARE partners

5. Work on IPR for Europeana

The Europeana IPR Cluster group met in Prague during 2009 to identify overlaps in IPR⁴ work among Europeana-related projects and initiatives. Subsequent activity was taken on by WG1.2, including legal aspects⁵. The kick-off meeting of this group identified the following list of key points for consideration/action:

⁴ https://version1.europeana.eu/group/europeana-collaboratory/documents?p_p_id=20&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=1&_struts.action=%2Fdocument%2Flibrary%2Fview&_20_folderId=26719

⁵ https://version1.europeana.eu/group/europeana-collaboratory/documents?p_p_id=20&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=1&_struts.action=%2Fdocument%2Flibrary%2Fview&_20_folderId=26719

- Make clear to content-providers what the term 're-use' means in detail in Europeana context – both for metadata & digital objects
- Reference to EC public domain policy
- Rights status of Europeana-generated thumbnails – rights status governed by country/content provider policies
- Europeana content license needs to be explicit for
 - (Europeana-generated) thumbnail of object,
 - metadata and
 - digital object itself
- Rights stay under control of content-provider, who is legally responsible for correct & high-quality rights expression
- Name, location etc. of rights holder needs to be absolutely manifest for end-users of Europeana (via URL?)
- Europeana (and presumably aggregators) are cleared from all rights, non-liability⁶
- Rights can change from public to non-public domain and vice versa.
- Updates of rights in Europeana through re-ingestion only
- Europeana content license must include conditions for re-use via APIs / webservice, including
 - Small scale / private / educational re-use
 - Large scale / commercial re-use
- Inheritance of rights from Content-provider to Aggregator to Europeana to re-use
- Model/draft Europeana license to be reviewed & feedback by 4 domains

A series of workshops, with representatives from the network, were held to produce these new versions of the Data Providers and Aggregator Agreements (see below). These were organised by EuropeanaConnect WP4, the Europeana Licensing Framework. The workshops reviewed the limitations of the current Data Provider and Aggregator Agreements in the context of Linked Open Data, use of Wikipedia and the search engines as promoters of Europeana and the Content Provider & Aggregator sites.

The first workshop was held on the 30th September 2010 and addressed those providers who had found signing the current agreement most difficult. This was followed by 4 domain workshops, Museums, Archives, Libraries and Audiovisual. A major sentiment arising from this work was that the majority felt that the non commercial clause needed to be removed in the interests of being able to publish metadata as Linked Data. The following table of risks and rewards was created as a result of this work.

⁶ In essence, this may imply that content providers would have to be happy that licensing was absolutely explicit, in all interfaces before agreeing to the inheritance of rights.

Risks	Rewards
About the institution's position	
Loss of control and authority	Greater relevance for the institution in the digital era. By opening up access to my data I avoid creating yet another online silo.
Loss of branding	Possibility to share the workload and gain more support from the community
Loss of the connection with the institution	Increased accessibility to my online content
Loss of control over the channels of access and the KPIs to justify use	Greater fulfillment of the mandate to share knowledge with the public
Fear of damage to the brand and reputation of my institution if my data is placed in defamatory or illegal contexts.	This fear exists anyway with putting anything online.
Fear of the new	Reputation and publicity in being the first. Other institutions ask for my expertise.
Makes users more lazy. They think that if it's not on the web it doesn't exist. People use material without the appropriate training.	Driver for digitisation and more sophisticated searching techniques.
About data quality	
Loss of control over the integrity of the data	Exposure puts more pressure on quality
Loss of control over the presentation and display	There are more, often unexpected functionalities and services that spring from the use of their data which add usability
No real-time updates This is important in some archaeological contexts – e.g. the ADS have to be very careful to recommend commercial researchers to go direct to the source for the most current data - this point really relates to the intended purpose/audiences of data within Europeana which should be made explicit (i.e. it should not be treated as an appropriate source of current data for archaeological development control work).	
Loss of context	Improved context. Data enrichment. Building a web of data. I discover more things about my content than I knew or was able to do before.
We hold content that doesn't belong to us. We hold content that we don't know the provenance/the status of	Not everything needs to be given away. Only what an institution feels comfortable with or is capable of making available without compromising 3 rd parties' contributions.
Financial risks	
Enable a commercial activity with something created with tax-payers' money	What is made available with tax-payers' money should be made widely available to all
Copyright enables money-making which is important at a time of important financial cuts	More money is made because of increased exposure and traffic. It is about making the pie bigger and not about cutting it down in smaller slices...
	More real visitors to an institution's physical space.
	Giving something away for free doesn't mean that something can't be commercialised elsewhere or in some other way. Someone that wants to use a

	picture in a print edition will always be going back to the institution holding the rights to license the right to use a high-res image, for example.
	Increased opportunities for funding. A lot of funding bodies are nowadays supporting open access.
	Saving costs from sharing workload. I can complement my collection with information I get from other bodies that are also making available their resources.
Technical	
More work and infrastructure required by my organizations	Europeana /Aggregators will create tools that will minimise the work of providing content – they will do most of the work in promoting the availability of the content. It is hoped that more traffic is not seen as a risk

The Europeana Council of Content Providers and Aggregators has also formed a legal working group which will deal with the legal obstacles involved in contributing to Europeana but this has yet to begin its work.

7 **Europeana Data Provider and Aggregators agreement**

A draft version of a revised Data Provider and Aggregator Agreement⁷ was circulated to the Europeana network including CARARE in December 2010, for comment and signature in 2011 and covers, in addition to legal and documentary formalities, the following areas:

- Licence of rights on Metadata
- Rights pertaining to Previews
- Use of Metadata by Third Parties
- Other rights of Data Provider
- Moral rights
- Obligations of the Data Provider
- Obligations of Europeana
- Liability Disclaimer

At the time of writing, comments received from Content Providers, aggregators and project partners have included the following issues:

- The need to cover effectively the role of aggregators in addition to that of Content Providers who supply metadata directly to Europeana
- The need to specify the obligations of Europeana to Data Aggregators
- The rights of metadata aggregators to offer different licensing terms from the Europeana terms?

⁷ http://version1.europeana.eu/c/document_library/get_file?uuid=94bcddb-3625-4e6d-8135-c7375d6bbc62&groupId=10602

- The need to have a licence to cover the use of metadata, in order to address legal issues which may arise (e.g. moral obligation) and to safeguard potential future revenue generation opportunities. (Some rights may still apply to Public Domain resources).
- Missing, inadequate or undiscriminated definitions and the need to improve definitions for future developments such as EDM, Linked Open Data etc in order to facilitate enrichment of metadata
- The need to clarify the distinction and the ‘transformation relationship’ between metadata and ‘Europeana data’
- The need to specify the obligations of Europeana and Data Providers with regard to maintaining and updating the metadata.
- Risks to semantic systematic and reliable disambiguation if Data Providers are allowed to restrict access to information or metadata elements
- How metadata will be made available as Linked Open Data
- The inability of a Content Provider to make statements regarding the rights in relation to linked external digital objects
- The use of the Europeana API
- Responsibility under the ‘open re-use model’ for abuse, misuse or damages incurred
- Responsibility for monitoring the ‘health’ of metadata released by Europeana
- The effect of the new arrangements on the ability of private aggregators to generate a return on investment

8 Other specific IPR issues for CARARE

8.1 Data re-use

Under Article 2 of the European Directive on Public Sector Information (PSI) Re-use, certain types of content are excluded from the scope of the Directive including documents held by cultural institutions such as museums, libraries, archives, orchestras, operas, ballets and theatres (with other exemptions in this same article for secrecy, educational and research organisations and intellectual property rights of third parties.

The Directive is to be reviewed in 2010. A report in 2009 addressing the question of whether Cultural institutions should be brought within the scope of the Directive, concluded that ‘the question whether cultural heritage institutions should be included within the scope of the Directive is complex. In general, cultural institutions represent a hybrid sector, collecting material of which a high proportion involves third-party rights. They generate comparatively little new PSI. The benefits of subjecting them to the regime of the Directive appear on balance to be modest at current levels of activity, although it is probable that the value of cultural information will rise in the context of new technology-driven developments in and around digital libraries.

The advent of Europeana may be seen as a key development in this context.

The final report of the High Level Expert Group on Digital Libraries, Sub-group on Public Private Partnership (the “HLEG-DL Sub-group”), published in May 2008 was supportive of the important role of PPP in helping achieve the European Commission’s strategy for digitisation, online



accessibility and digital preservation of Europe's collective memory. A major concern in this area has been however to minimise the impact of exclusive deals with commercial operators which may infringe European and national law as expounded in the Directive on PSI re-use and its national transpositions. This approach has been supported in the recommendations of the Comité des Sages in its New Renaissance report⁸ in January 2011 which found that:

'Public-private partnerships for digitisation must be encouraged. They must be transparent, non-exclusive and equitable for all partners, and must result in cross-border access to the digitised material for all. Preferential use of the digitised material granted to the private partner should not exceed seven years.'

Cultural institutions have frequently considered it preferable to distinguish between commercial and non-commercial forms of re-use in terms of licensing on grounds of both income protection and in some cases specific moral perceptions. Europeana now considers it important to remove the 'Non Commercial clause' from its Data Providers Agreement because because it is seen as constraining Europeana and other aggregators ability to compete in real world. Re-use in this context concerns only metadata rather than the digital source content itself, which Europeana does not propose to reuse.

The current agreements state that: "the Data Provider grants Europeana Foundation the right to allow Third Parties for non-commercial purposes only and on a non-exclusive, worldwide, royalty-free basis to...". Trying to identify what is a purely non-commercial purpose is seen as problematic and difficult to enforce.

An Aggregator workshop on 'Communicating the new Data Provider Agreements' was held on 17 January 2011 in The Hague. The workshop focussed on the best way to communicate to the various networks of content providers the changes needed to make to the Data Providers' Agreements in order that Europeana can take advantage of technologies such as Open Linked Data.

Barriers to adoption of the Agreements by Content Providers were identified as:

- Rights issue (what is going to happen to the metadata after it's been openly published on the web?)
- Loss of control over data. Who is the actual owner of the data?
- Funding issue. A lot of the aggregators have received (European) funding to deal with rights issues under the current agreement but don't have the resources to respond to the needs of the new agreement.
- License problem. Many aggregators don't have the rights to allow re-use of the data. On the other hand, commercial providers in particular would feel more safe with a proper license than an agreement in place.
- 3rd party contracts prohibit the open re-use of parts of the metadata
- 'Analogue thinking' in a digital world
- Assessment of 'return' data. How can the providers make use of their own data that Europeana has enriched. (How are we going to organise the process of LoD? Shouldn't the title be a data exchange agreement?)

⁸ http://ec.europa.eu/information_society/activities/digital_libraries/doc/reflection_group/final-report-cdS3.pdf

- Attribution of all intermediate providers is not clearly secured
- Mention in the agreement Europeana's intention with regards to making money
- The fact that anyone might commercialise the use of the metadata
- Promoting LoD to partners in respect to their own business models (they do not want to allow free reuse when they make money from it)
- Withdrawal of data of current providers
- Fear of selling the data without being in control of the process
- LoD creates competition between aggregators, providers and Europeana? If it is linked to Europeana metadata record and not to an aggregator
- Cultural institutions are more obliged to make more money in the future
- European database directive, may be a barrier
- Barriers are mainly psychological
- CC is not a licensing tool (mainly from commercial providers)
- In the case of previews it needs to be more clear that transformation may occur from Europeana, such as change of the image format or resizing of a picture, for display purposes. Also acknowledge at presentation level that a transformation has happened.
- Some terms need to be more clarified

A review document is expected following feedback on these findings.

8.2 Geospatial data

CARARE has an important contribution to make to Europeana in the area of place and geographic information. The digital content that will be harvested by CARARE includes a large quantity of 2D content with metadata rich in geographic information. Archaeological monuments and historic buildings are places in the landscape and geographic information provides an important starting point for research and enquiry. Heritage agencies make widespread use of spatial metadata to provide map-based search services (GIS) and have developed standards, vocabularies and systems to support GI functionality. The results of the Content Survey showed that there are 34 collections that use geographic coordinates to describe spatial data. Most of these have 100% of the collection described by geographic coordinates

In the context of Europeana, current discussions do not pertain to geographical information as such. Coordinates or geographical names are considered to be part of the metadata itself – and as such not to require any additional or different licenses or IPR regimes. However, a number of considerations may need to be borne in mind for the future.

The intellectual property right of geographic information shows a great deal of variation between different legal frameworks and organizations. Traditionally, mapping has been a discipline which has been closely linked to national civil and/or military mapping agencies (NMA) which may be organized as state authorities or public companies. Consequently, data sensitivity has been an issue of great concern when releasing map products for use and re-use, introducing methodologies like vetting strategic defence installations etc. This practice has been transferred from the analogue products and onto digital spatial data – something which has resulted in the establishment of relatively strict licensing schemes for re-use of data.

NMAs are generally in charge of establishing geodetic networks and topographic base maps whereas property information has been the domain of dedicated land management authorities

(LMA). Both of these datasets are of great interest as (a) a background for presenting of thematic data and (b) as a registry towards which cultural heritage information may be geocoded. “Geocoding” mean to link an object’s metadata such as geographical names, addresses, property numbers or building IDs to corresponding spatial registries to derive a coordinate representation of the object for visualization and analysis in digital maps.

Currently, spatial base map data are being created by private sector companies under contract with national mapping authorities. It is however very seldom that the private sector companies retain any rights to the completed materials. IPR is generally transferred in its entirety to the client.

Following the improved accessibility and reduced cost of advanced mapping software and the introduction of simpler data capture mechanisms, creation and use of digital spatial data is now being done everywhere and by everyone.

The massive growth of spatial data producers have sparked a branching in the way in which IPR is handled. Some ‘newcomers’ have been inspired to adopt restrictive NMA licensing and rights management schemes whereas others have taken on a free and/or public domain approach whereby second and third parties are free to create value-added services subject to restrictions.

The result of the development is that the following scenarios are now evident in the spatial data community:

1. Spatial data which are not available for civil use/re-use
2. Spatial data which are available for defined institutions only
3. Spatial data with usage restrictions (offline use only, online use, per seat licensing, per server licensing)
4. Spatial data provided by global application service providers (ASPs) such as Google (Maps), Yahoo! (Maps) or Microsoft (Bing Maps) which, curiously, are often based on sub-sets of NMA datasets procured by the ASPs.

Archaeological sites, monuments and artefacts are geocoded to licensed registries.

Generally, the higher the resolution and the higher the level of detail, the more strict are the licenses enforced. Spatial background maps at the resolution required to make sense in presenting archaeological sites would belong in the latter category. This means it is challenging to find such base maps which may be used freely on the Internet. On the other hand, abstract representation of sites, monuments and structures in the form of point data may be sufficient to enable spatial navigation and visualization paradigms for archaeological data and should be possible without great effort.

The only IPR issue which may incur would be in the event that data are geocoded and the resulting features inherit attributes from the geocoding registry. The following example illustrates the point. The Robsonian Institution has a database with metadata for archaeological sites. One of the metadata fields is dc:spatial (Dublin Core Spatial) which contains names from the national geographical names gazetteer. The GIS experts of the Robsonian acquire the names gazetteer from their NMA and perform a geocoding whereby entries in the archaeological site database are matched towards the gazetteer. The coordinates of matching names are transferred to the archaeological site database – in effect producing a derived dataset. The same applies to point or

boundaries digitised from an Ordnance Survey base map, which can still be considered derived data depending on the dataset they were derived from⁹.

If the licensing scheme of the originating gazetteer is transferrable one of the following may apply:

- The resulting dataset would inherit the full licensing restrictions of the originating dataset and any fees required for the originating dataset may incur for its use.
- The resulting dataset may inherit a subset of the licensing restrictions of the original dataset and the original or differentiated fees may incur for its use

Based on the above, the following IPR issues may be useful to be aware of in the context of spatial data in CARARE:

- Usage restrictions and fee structure for use of spatial base maps as background for presentation of archaeological data on the Internet;
- Transferrable licence restrictions for geocoding registries which may be inherited by geocoded datasets;
- Any IPR reserved by companies having created spatial data for archaeological sites on behalf of clients;
- Transferrable IPR of proprietary architecture and/or artwork which is represented in 3D and which may be wholly or partly reproduced taking CARARE data as a starting point.

8.3 3D/VR models

3D models whether adjusted to geographical space or merely treated as detached objects in local coordinate spaces are most typically the IP of the creator/financing institution and/or are considered 'national property' as reinforced by the CARARE Content Survey. Fees and other conditions of use do sometimes apply.

Some heritage bodies are concerned that their models should not be re-used inappropriately - for example by people presenting 'alternative' theories about the origins/functions of temple sites; or in war games. It is also true that a condition of use might be the presentation of 3D data ONLY when in association with context data on what is record as opposed to reconstruction and what interpolation methods have been used, i.e. it might be inappropriate to reuse a model if it is divorced from this information, which is not always embedded and may have different licensing issues. To a significant extent, this may concern the reputation of the organisational 'brand' as the users of the models themselves. This may lead to a wish in some circumstances for direct contact with the re-user rather than allowing general permission to re-use under a CC licence.

On the whole, this is not a 3D-related issue, because this fear of abuse is also present with organisations supply textual and 2D information. The real question probably concerns the extent to which a content supplier controls the use of its data.

Europeana policy in relation to this is mainly expressed at present in the Europeana Usage Guide for public domain works.¹⁰

⁹ <http://www.edparsons.com/2010/10/well-done-os-derived-rules-clarified/>

9 Conclusion

Discussion on a wide range of IPR issues remains live in the general context of Europeana, especially concerning the use and re-use of metadata. CARARE will need to track and participate in these discussions and especially in those areas relevant to its specific interests (see section 8) will have a significant and necessary contribution to make to conclusions reached by Europeana. It is recommended that CARARE itself adopts a risk management- based approach to these outstanding and other emerging IPR issues.

10 References

Europeana Public Domain Charter <http://version1.europeana.eu/web/europeana-project/publications>.

The Creative Commons licence framework <https://creativecommons.org/licenses/>

Europeana Data Aggregator Agreement. Final, April 2010.

http://www.minervaplus.ru/athena/Annex_2_Data_Aggregator_Agreement.pdf (currently under revision)

Directive 2003/98/ec of the European Parliament and of the Council of 17 November 2003 on the Re-use of Public Sector Information

http://ec.europa.eu/information_society/policy/psi/docs/pdfs/directive/psi_directive_en.pdf

i2010 European Digital Libraries Initiative. High Level Expert Group on Digital Libraries. Sub-group on Public Private Partnerships. Final Report on Public Private Partnerships for the Digitisation and Online Accessibility of Europe's Cultural Heritage

http://ec.europa.eu/information_society/activities/digital_libraries/doc/hleg/reports/ppp/ppp_final.pdf

¹⁰ http://version1.europeana.eu/c/document_library/get_file?uuid=fdbfab52-e599-4558-a888-149d34331e19&groupId=10602