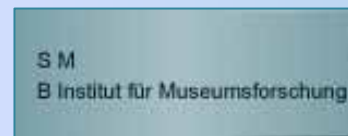# The Extension of the PSI Directive to Cultural Heritage Information: Risk or Opportunity?

Giuliana De Francesco

Overview

- Mission of the cultural institutions
- Online access and aggregation of cultural content
- ATHENA case: The museum community and the Europeana licence agreements
- Approach of cultural institutions towards re-use of cultural heritage information
- Risks and opportunities related to the extension of the PSI directive to cultural institutions

Mission of the Cultural Institutions

- Museums, archives and libraries collect, hold, preserve, document, catalogue, exhibit, communicate, promote cultural and scientific heritage and associated information for public benefit (learning, study, reference, research, enjoyment etc)
- Public LAM use to give end users free access to their content
  - The approach of Heritage Protection Offices might be different

Mission of the Cultural Institutions

- Digital technologies provide the institutions with new means to pursue their mission
- Digitisation and digital services are not often embedded yet in the "core business" of the cultural institution
  - Funding is limited, and decreasing
  - Challenge for revenue generation

Online Access and Aggregation of Cultural Content

- Which type of information?
  - Digital reproduction of cultural objects
  - Information about them (metadata)
  - Not necessarily all administrative, cultural or scientific content produced by civil servants in public sector cultural institutions

Online Access and Aggregation of Cultural Content

Cultural collections are available online through:

- **Institutional websites** or online databases

- **Joint portals**, domain-specific or cross-domain, such as the Italian CulturaItalia (www.culturaitalia.it) or the German BAM-Portal (http://www.bam-portal.de)
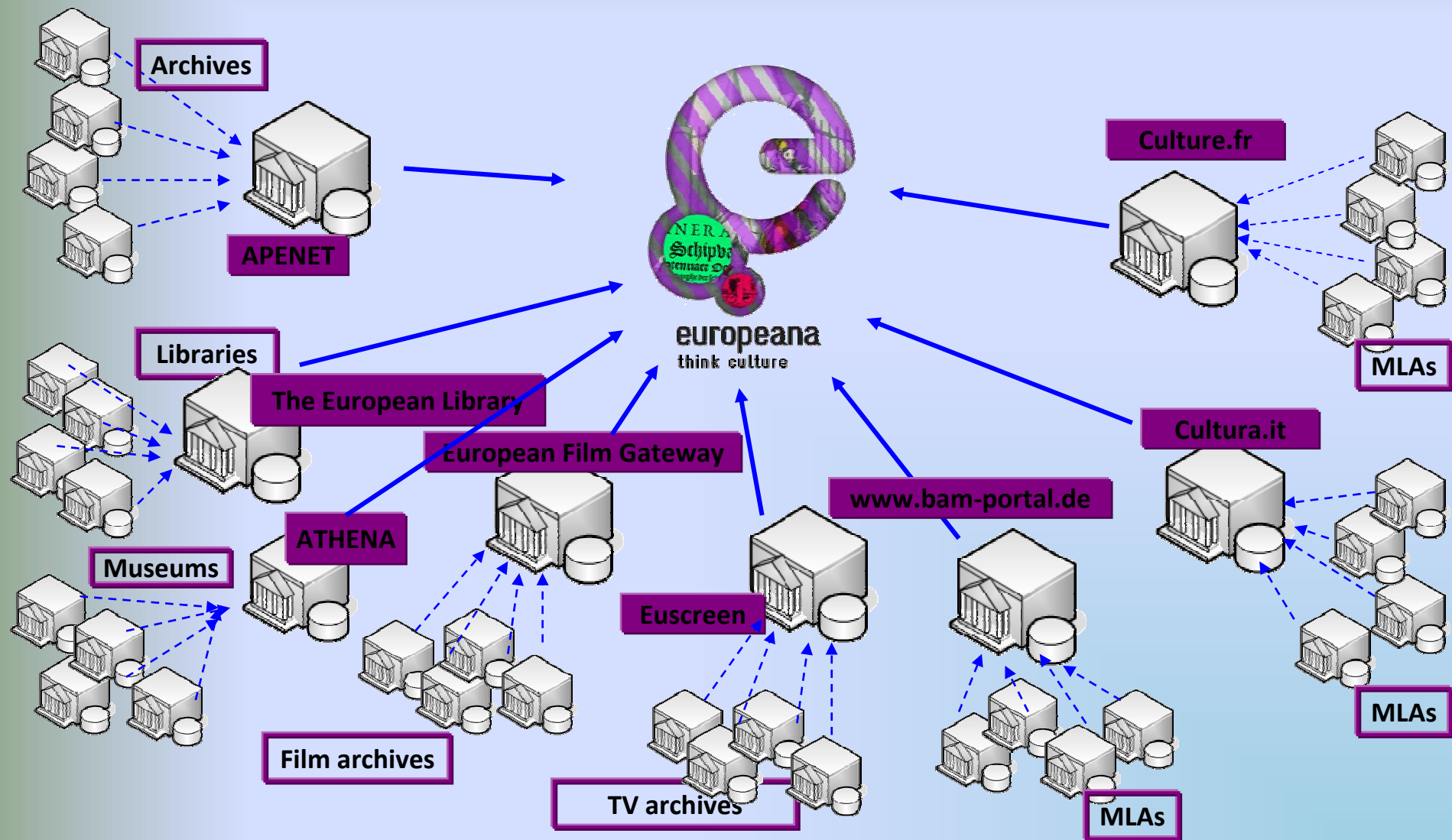
Europeana.eu

Aims at offering a single multilingual access point to Europe's distributed cultural heritage information
- access at the object level

"A digital library that is a single, direct and multilingual access point to the European cultural heritage."

European Parliament, 27 September 2007

Europeana aggregates content from aggregators and individual data providers

Archives
APENET

Culture.fr

Libraries
The European Library

MLAs

ATHENA
European Film Gateway

Cultura.it

Museums

www.bam-portal.de

Euscreen

Film archives

TV archives

MLAs

MLAs

MLAs

8

Europeana.eu

- Europeana.eu publishes metadata and thumbnails, plus the link to the digital content in its original context (= access service)

- **Each content provider is legally responsible** for clearing any rights in the data they contribute

- A major central aggregator might actively raise the awareness of the institutions towards benefits deriving from the re-use of their digital content

Europeana.eu

- A major central aggregator might provide a mechanism for supporting licensing of cultural content from both private and public establishments for any kind of private and public use

- Current focus: obtaining large quantities of rights-cleared metadata records and thumbnail images
  - Request to have them fully licensed for commercial re-use

- This approach raises issues across the museum community

ATHENA Community and the Europeana Licence Agreements

http://www.athenaeurope.org

ATHENA and Europeana

- European Museums towards Europeana
- Aggregation of large quantity of digital content (metadata + thumbnail images) through a common harvesting standard (LIDO)
- License agreements with Europeana for the re-use of data
- Two rounds of consultation on draft licence agreements (2010 and 2011, ongoing)

The Museum Community and the Europeana Licence Agreements

- **Dec 2009**: Europeana asks for feedback on draft Data Provider Agreement and Data Aggregator Agreement

- "Data" = descriptions (metadata + thumbnail)

- The draft envisages possible reuse of data for **commercial purposes** and **content enrichment**

The Museum Community and the Europeana Licence Agreements

- **Background issue**: Europeana states that the agreements only deal with metadata, and not with the content itself: "*most metadata is without intellectual property rights*".

- *Museums concern:* museum object descriptions, as the result of expertise and research, are original and extremely rich in intellectual content, and therefore subject to intellectual property rights: ***"the descriptions ARE the digital content"***

The Museum Community and the Europeana Licence Agreements

- **Commercial use**: ATHENA partners claimed that any commercial use of metadata by Europeana Foundation, or any third parties, had to be explicitly excluded.

The Museum Community and the Europeana Licence Agreements

- **Moral and ownership rights** might be not safeguarded throughout the chain of aggregation and reuse and the development of services on top of the content.
  - **Credits:** For each bit of content, besides the organisation responsible for it and the contributing aggregator, there might be an author to be credited.

The Museum Community and the Europeana Licence Agreements

- **Update:** Metadata, especially in the museum domain, are subject to corrections and revisions, and can't be regarded as definitive

- **Accuracy:** Adaptations and derivatives, if not faithful to the original, might undermine the accuracy and completeness of data

The Museum Community and the Europeana Licence Agreements

- **Dec 2010:** Europeana launches a consultation on a new draft License agreement

- Availability of data for commercial purposes is again a requirement

- Motivation: Publication as linked open data, semantic enrichment, "openness" of re-use of the data requires CC0

  – Attempt to "voicing" cultural heritage in the linked data environment

The Museum Community and the Europeana Licence Agreements

- Concerns in the Museum community
  - Re-use for commercial purposes not acceptable
  - Request that **the information provider is in control of their information,** and that an option is left between simple publication on Europeana or with additional LOD
  - Disagree on the need for Linked Data to be "open"
  - Request for evidence of the benefits offered to Cultural Institution by the publication as open data
  - Risk of frustration and loss of trust as a consequence of the change of conditions by Europeana
  - Risk that less content is contributed, hesitation to attract further participation

Cultural Institutions and Re-use

- **Service provision is never oriented to profitability**, but to the promotion of the collections and to **serving public use**
  - Digitisation, rights management and digital access to content and information u.a.
- **Cultural institutions in general want that their content is re-used for non-commercial purposes**
- Individual users and educational/research purposes are commonly distinguished from commercial re-use, which tends to be charged for
- The cultural sector recognises the commercial value of their content, it is though more focussed on its social value and rarely exploits it effectively
  - Image libraries run by museums and other cultural establishments rarely cover their costs
  - Aggregators of cultural content are not offering content licensing services

Cultural Institutions and Commercial Re-use: An "Antipathy"?

Sustainability issue

- **Pressure to income generation**
- Aspiration that commercial parties, benefitting from digitisation, partially contribute to cover its costs
- Fear that re-use and re-sale by commercial sector would destroy future income streams

However:

- Some sectors of the public cultural institutions **simply don't like the idea** of the use of cultural information for profit purposes:
  - *"Giving away for free a common good created with tax payers' money is unacceptable"*

Barriers to Wide Re-use of Cultural Heritage Information

- **Critical mass** of digital cultural content?

- Lack of adoption of **open standards**

- **Discovery** of available content is not yet easy.
  MICHAEL project attempted to facilitate it:
  - Multilingual Inventory of Cultural Heritage in Europe
  - Access to CHI through **collection-level descriptions**
  - The data model includes context information related to Institution, Service, Physical Collection, Project/Programme
  - The description includes the IPR status, thus helping to identify the content available for re-use
  - But the status (3rd party IPR) will often not be clear to potential re-users

Barriers to Wide Re-use of Cultural Heritage Information

Copyright owned by others:

- Although much material held by CC.II. is 'old' and thus out of copyright, **a relevant amount of material is still in copyright** (works of art, printed books) or unavailable to the public for other legal reasons (e.g. archival documents)

- Issues related to **Orphan Works**

- Cultural institutions increasingly manage **User Generated Content**

Barriers to Wide Re-use of Cultural Heritage Information

Public Private Partnerships:

- Several institutions signed exclusive agreements with private partners, assigning them some exclusive rights on the materials

- Major digitisation enterprise are PPP, and this is increasing

  – Example: Google Book Search

Barriers to Wide Re-use of Cultural Heritage Information

Ownership of collections:

- Cultural establishments don't always own all what they hold: permanent loans, deposits etc.

- Cultural institutions usually own the copyright for the materials created in-house or commissioned
  – Some national laws assign to the CC.II. the copyright on reproduction of any cultural asset under their responsibility (e.g. Italy D. Lgs. 22.01.2004, nr. 42 Codice dei beni culturali e del paesaggio, art 108)

Inclusion in the PSI Directive: Risk or Opportunity for Cultural Institutions?

- Would cultural institutions' **outreach** increase?
- Would **policies** for the digitisation of cultural heritage at national and European level guarantee regular funding to digitisation activities, in order to achieve a critical mass of quality digital cultural content?
  - Embedding digital services into the core mission of the institution
  - Fostering data and information management in the cultural sector
  - Increase and stabilization of funding for the digitisation and the creation of digital content and services

Inclusion in the PSI Directive: Risk or Opportunity for Cultural Institutions?

- Would pressure on cultural institutions for **self-sustainability** of their activities decrease?

- Would measures be provided that make easier dealing with **orphan works**?

- Or would the **administrative burden** related to the identification of the status of the IPR on each piece of content overwhelm the cultural institution?

- Would the **attribution** to the institution be kept throughout the process of reuse?

- Would the **accuracy** of information be maintained?

Is there a Risk in NOT being included?

- Exclusion from great communication channels
- There are more mobile phones than people, young people use mobiles as preferred communication tools
- Internet services have replaced real world ones
- GPS is almost in every car
- Web 2.0 services offer a huge dissemination potential
- Potential markets for re-used cultural heritage information = **Potential risk for CHI to remain away from the (virtual) places where people are**

Is the inclusion in the PSI directive the best way to encourage re-use of cultural heritage information?

- Would "disempowerment" of public cultural institutions foster progress in re-use?

- Would further dissemination and promotion of open licences across the cultural institutions of all sectors be an option?

- Is there scope for a European PSI licence, such as the UK Open Government Licence?

Is the inclusion in the PSI directive the best way to encourage re-use of cultural heritage information?

- **Quality issue**: Reliability and trustworthyness of the cultural information is bound to the cultural institution providing it

- **Coverage and consistency issue**: Users wish to discover and find the content their are insterested, irrespective of the type of institution and the sector it belongs

- **Museums, libraries, archives, audiovisual archives also belong to universities, broadcasters, foundations, businesses, and other private bodies**

Is the inclusion in the PSI directive the best way to encourage re-use of cultural heritage information?

- **Market interest**: It might address only "best-seller" works or collections

  - Visitors use to crowd a few cultural establishments

    - **Italy:** Visitors in State museums, monuments, archaeological sites (ca. 500 sites) in 2009: **32.379.014** (SISTAN data)
    - **10 most visited sites: 12.850.028 (40% visitors)**

- **Administrative issue**: The administrative burden related to the identification of the IPR status on each piece of cultural content **might make the re-use practically impossible**

Thank you for your kind attention!

Contact details:

- giuliana.defrancesco@beniculturali.it
- g.defrancesco@smb.spk-berlin.de (2011)