



International Organisation of Performing Artists

## **GIART ANSWER TO COMMISSION'S CONSULTATION "EUROPEANA NEXT STEPS"**

GIART, the International Organisation representing Performing Artists' Collecting Societies, would like to express its comments as concerns the Commission consultation on Europeana project .

### *General*

#### *Question 1*

*Which orientations would you suggest for the future development of Europeana as a common access point to Europe's cultural heritage in the digital environment?*

**We would suggest to develop Europeana as an important tool to accessing Europe's cultural heritage. However the full respect of copyright and the adequate remuneration of rightholders must be ensured. It goes without saying that all the material available through Europeana should be subject to the relevant prior authorisations of rightholders through their collecting societies.**

#### *Question 2*

*Which features should be given priority in the further development of the site?*

**We esteem that the web site should be much clearer and more attractive.**

#### *Question 3*

*Has Europeana struck the right balance between making Europe's digitised cultural heritage searchable through a common entry point and at the same time giving visibility to the institutions that contribute the material, or should the material accessible through Europeana be presented in a more unified way?*

**The material should be presented in a unified way.**

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#### ***Question 4***

*How should Europeana further develop its own autonomous identity?*

**We believe that Europeana should be linked to the public institutions of the EU in order to preserve cultural diversity. Europeana must also be connected to rightholders' collective management societies to ensure that necessary authorisation is given.**

#### ***Question 5***

*Should there be minimum requirements for the content brought into Europeana by the contributing organisations (e.g. minimum viewing or use options)? If so, who should be responsible for defining and imposing these minimum requirements?*

**We should make a distinction between content still protected and content in public domain. In the case of public domain, content information about the works should be given when accessing them. In the case of content which is still protected the user should know the term of protection . Europeana of course should have previously cleared the rights with the relevant CMS. European institutions should be responsible for establishing minimum requirements. However the Commission should go through prior consultation with the stakeholders.**

#### ***Content for Europeana***

##### ***Question 6***

*Which categories of content are so important for the users that Member States and their cultural institutions should be encouraged to make them available through Europeana? What measures can be taken to ensure the availability of these works through Europeana?*

**In our opinion it is important that public domain works be included in Europeana and made easily accessible also to disabled people.**

##### ***Question 7***

*What is the best way to encourage cultural institutions and rightholders to take into account cross-border access - including through Europeana - in their agreements on digitisation and dissemination of in-copyright material? Which legal or practical barriers to this cross-border access need to be addressed?*

**The best way to encourage rightholders to support the digitisation and dissemination of any kind of content protected by copyright is to ensure that the rightholders are remunerated for the use of the in-copyright content. Europeana should as a consequence ask every CMS for prior authorisation to use of the copyrighted material.**

**When it comes to performing artists' rights, it is necessary to highlight the main legal barrier: the fact that performers do not get any remuneration for the making available right on the Internet. This is a priority issue that should be addressed at EU level by the new Commission. In fact, at the moment any initiative to digitise and spread the content**

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over the Internet results in a weakening of performing artists rights because of the above mentioned lack of remuneration.

**GIART is available to provide the Commission with possible solutions and models that would support a wider digitisation of European contents along with an adequate protection of performing artists rights.**

#### ***Question 8***

*How can the difference in the level playing field for digitising and making accessible older works between the US and Europe (in particular the 1923 cut-off date in the US, that places all material from before 1923 in the public domain) be addressed in a pragmatic way (e.g. better databases of orphan and out-of-print works, a cut-off point that imposes lower requirements for diligent search in relation to orphan works)?*

**We do not esteem that the example of US should be followed at EU level. The legislations and copyright systems are not comparable. Therefore any world-wide initiative in the field of digitisation and making accessible older copyrighted works should respect existing legislation in any part of the world. In a world-wide system every different legal system should be taken into account, not only the US-EU systems. If a global solution is necessary it should be studied and achieved within WIPO.**

**In any case we strongly oppose the lowering of the requirements for the diligent search of orphan works as it would result in a great prejudice and financial damage to the rightholders. We are also totally opposed to the inclusion, in any future legislation about orphan works, of the category of “out-of-print” or “not-published” works.**

**To conclude, we are in favour of the improvement of the databases of orphan works.**

#### ***Question 9***

*What policies should be adopted to avoid that the process of digitisation itself creates new types of sui generis copyright that, in turn, could create barriers to the dissemination of digitised public domain material?*

**It is not necessary to create new types of sui generis rights as Europeana is only a tool to make some kind of content accessible and therefore as a consequence the main issue is that rightholders are duly remunerated for the use of their works.**

#### ***Question 10***

*What measures can be taken to ensure that cultural institutions make their **digitised public domain material** accessible and usable in the widest possible way on the Internet? Should there be minimum requirements for the way in which digitised public domain content is made available through Europeana?*

**We do not think that there is any measure needed to ensure that public domain material is accessible in the widest way. It is necessary to stress that moral rights of any public domain work must be respected.**

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## ***Financing and governance***

### ***Question 11***

*Which financing model would reflect a fair distribution between Community funding, Member States' funding and private funding, taking into account that the aim of Europeana is to give the widest possible access to Europe's cultural heritage at pan-European level? Could Europeana be financed solely by national cultural institutions or by private funding?*

**Funding should be provided by EU and national institutions, and as well by private companies.**

### ***Question 12***

*Is sustained European Union funding for the basic operations of Europeana necessary and justified for the period after 2013? What type of European funding instrument could best be used?*

### ***Question 13***

*Which governance structure for Europeana would best fit the preferred financing model (as indicated under question 11)? Should there be a role in the governance structure for organisations other than content providers?*

**Europeana should be governed by European public institutions but under the control of rightholders.**

### ***Question 14***

*How can private involvement in Europeana best take shape (e.g. through sponsoring, through technological partnerships, through links from Europeana to the sites of publishers and other rightholders where the user can buy in-copyright content, or through another type of partnership)?*

**It is suitable to obtain support such as sponsoring and technological partnerships from private institutions. We also think it is a good idea to have links to the sites of rightholders where users can purchase copyrighted material.**

### ***Question 15***

*How can private sponsorship of Europeana best be stimulated? Are commercial communications on the Europeana site acceptable, and, if so, what type of commercial communications (e.g. logos of sponsors, promotion of specific products)?*

**We think that a system of commercial communications could be studied in order to make it attractive for private organisations to sponsor Europeana's project. However the publicity should not be invasive and it should not be in conflict with the aims of Europeana which are cultural. Logos and links to sponsors' website could be considered as acceptable.**

### ***Question 16***

*Should there be a contribution (financial or other) in exchange for the links from Europeana to sites with content for which the user has to pay? Can a model such as that of Gallica 2, providing links from the site of the Bibliothèque Nationale de France to the content on the*

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*sites of French publishers, be transposed to Europeana?*

**Yes it could be a good system to get financing for Europeana following the French model of Gallica 2.**