

## **The answers were provided by the Hungarian Inter-ministerial Expert Group on Cultural Digitisation**

### **Questions for consultation**

#### *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?*

Europeana should focus primarily on digitised cultural assets of common European value. More emphasis should be put on the European character of the national heritage brought into Europeana.

Europeana should aim to create a sustainable service that focuses on the aggregation of authentic data of good quality, which should be a priority over the quantity of items accessible through the site.

More emphasis should be placed on improving the multilingual aspects of both the user interface and the contents. Content considered of European importance should also be available and searchable in other language than its original (ie. by multilingual text versions, multilingual metadata, thesauri, cross references).

#### *Question 2*

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

Features addressing the issue of sustainability of the site/service should be given priority.

Providing tools that give access to and stimulate the creation of user-generated content in line with the European cultural heritage should be a key element in the (long-term) development. Integration of web2.0 and web3.0 tools can ensure that the service will attract the attention of one of the most important target groups, i.e. younger generations/ students.

Web 2.0 applications such as blogs, podcasts, wiki, or video sharing, enable users to easily create and share text, videos or pictures, and to play a more active and collaborative role in content creation and knowledge dissemination, therefore it should be important to preserve these works due to their cultural value. Features aimed at expanding services available with (or without) registration, enhancing community applications, promoting interaction among users should have also priority.

Further on, the site should have a more advanced and optimised search feature, in order to be able to retrieve all relevant records. The search should:

- handle proper (and other) names and keywords in a more sophisticated way (The proper name resources of institutions who possess authentic and controlled databases of authority files can be handled in a unified way - in a way that is standardised but formally corresponds to different user levels.)
- provide users with evaluating (and other interactive) tools (ie: to assess the relevance of the given hit, or the technical quality and cultural of the content found )
- use improved metadata in order to allow the result list of a search to be arranged by different criteria (ie: overall relevance, restrictions of use, quality relevant of the genre of content, online availability of the full content, etc.)

The content provider institutions should have feedback (both statistical and detailed data) on:

- the most common search expressions
- the search habits of the users
- the most frequently accessed contents
- the users evaluation of the contents found.

The above information should be generated in the context of Europeana and more importantly the given institution's collections that are accessible via Europeana (ie: position of their items on the result lists). This could help them planning their future digitising activities and improving their Europeana contents.

### ***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?*

For material of common European value digitised cultural heritage should be made accessible in a unified way. However the remaining part of digitised material can be presented in the way the institution contributed it, thus giving visibility to the holder of the cultural object.

The efficiency of search may not be hampered by the visibility, however the content provider institutions should be visible on the site (by recommending their own websites, services in a more visible way etc.) in order to foster their willingness of contributing their content. Contributing institutions should be given the possibility and freedom to define themselves the degree of their own visibility in a more dynamic and customizable way. In this case instead of the top-down approach a bottom-up approach would be preferred.

A certain level of standardisation could greatly enhance the efficiency of use, because now it is unpredictable what the user gets when clicking on the link of a given content (ie. only

metadata without the content itself, broken links, confuse web-pages). At this point it is more desirable to set minimum criteria instead of total unification (e.g. it would be important to require that by clicking on the link of the web page of the institution of the searched object, the object itself should be accessible by one single click).

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

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

Europeana's identity can be developed by increasing the number of material of common European value, by enabling the search of interrelations on European level of various items of national heritage thus giving a value added to accessing Europeana.

Along with increasing content the development of new, value-added services mentioned above could shape Europeana's image. It is of utmost importance to fine-tune the user interface to enhance search efficiency and its informative character.

#### ***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?*

Setting up minimum requirements is needed in order to ensure the high quality and sustainability of the services. These criteria should be defined by Europeana v1.0's Core Experts Group (or equivalent) in consultation with national experts and aggregators.

Among minimum requirements the issue of the multilingual European cultural heritage should be dealt with by providing innovative solutions that enable multilingual and semantic access to the content of cultural, scientific and educational value.

However in order to augment the quantity of content available through Europeana, digitised objects failing to meet minimum requirements could also be brought into Europeana but made accessible separately with an indication of the substandard quality.

Europeana should focus primarily on content of unlimited accessibility or at least ensure predominant proportion of such content. All objects should have a preview and the list of hits should indicate the limitations of use or access. A minimum of technical criteria should be also defined by the Core Expert Group of Europeana and imposed by building two databases (or one database where the substandard quality records may be filtered out by the user's choice):

1. Database of quality records meeting the criteria
2. Database of records of substandard quality.

#### ***Content for European***

#### ***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?*

For the European user content is important, if it is comprehensible. Hence the first category of content of greatest importance constitutes images, audiovisual material and written documents with descriptions on major European languages. Priority should be given to material present in the cultural heritage of several member states. For example, in the case of written material, language versions of works should have priority. It may be important for a user to find the original version of a book accompanied by its translation into various European languages. Concerning objects of visual cultural heritage, interrelations on European level between works of art, creators and other persons, places could be of more interest.

Content may be also important concerning its value from the aspects of learning and education, cultural tourism, and the protection of the cultural heritage. The promotion of availability of such works through Europeana should be encouraged by Community Program grants.

People with disability should also have an opportunity to have access to such categories of content of Europeana whose formats are adapted to their needs (e.g. Braille, large print, audio-books and accessible electronic books)

### **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?*

Guidelines and recommendations or templates should be provided to enable institutions to handle the cross-border (and other) copyright issues in such a way that serves the interest of the institutions as well as Europeana and the European Member States.

We share the opinion of the Communication that one of the key challenges for Europeana is to incorporate in-copyright material, which requires good collaboration between cultural institutions and rightholders, in full respect of copyright legislation. Such collaboration can take the form of agreements between national cultural institutions and rightholders or of links from Europeana to sites operated by rightholders. For the development of Europeana it is also essential that pan-European licenses provide for the availability of these materials across the EU.

### **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)?*

It has to be emphasised that in the aspect of books the actual Hungarian copyright system is capable to ensure entitled persons the possibility of granting cross-border licences, so we further on believe that this way is suitable for EUROPEANA to undertake the collection and the making available of protected works at a wider range. According to our opinion it is not the diversity between the making available of really old works – which in some countries are already not under protection – that causes the biggest and disadvantageous competitiveness problem in copyright. We do not deny it might occur that while a work originating from the US is still under protection in the EU territory, it is a public domain in its country of origin. The solution to this problem in any case could only be based on the complex evaluation of the copyright relationship with the US.

The issue may be resolved by the usage of a certain cut-off date defined in a reasonable way not extending the existing copyright limitations so as to reduce the gap between the digital cultural development between the US and the EU where the latter already lags behind. The solution could be the pragmatic use of a cut-off date that would impose a lower threshold for diligent search for works from before a certain date defined by e.g. a possible US-EU bilateral agreement covering intellectual property. It could be laid down in that instrument that in case where the concluding parties measure the term of protection of a work from other than the life of the author, the term of protection shall be not less than 70 years from authorized publication or, failing such authorized publication within 70 years after creation of the work, 70 years after the making.

Our opinion however is that the problem is a result of the fact that whilst - based on the settlement set out in the Google Books case - the works that are still under protection but can be deemed to be orphans will be accessible on a market base legally, there is still no existing common approach neither in the market use, nor in the use serving cultural preservation in Europe. We do not consider the declaration that orphan works shall be subjects of free use an efficient solution, because it might occur that the author of the work becomes known or available. In this case the reason for an alternative treatment ceases.

In addition the aim can only be such a solution that does not reduce the level (i.e. the term) of protection but resolves the practical problems. In this aspect we suggest the special licensing system designed in Hungary as a matter for consideration. It ensures the lawful use of orphan works and - according to the possibilities - reserves the possibility of disposal of the author over them at the same time. A recent amendment to the Hungarian Copyright Act has established an administrative system for authorising the use of orphan works. The scope of the licence provided by Hungarian Patent Office (hereinafter: HPO) is limited as follows: it is valid for just a limited period of time, i.e. 5 years, and exclusively in the territory of Hungary. Furthermore, it is a non-exclusive licence, which does not involve any entitlement to transfer or to issue further license on the use of the orphan work in question. Additionally, the permitted use authorized by HPO does not extend to the adaptation of the work.

### ***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?*

Taking into account that the right of reproduction was harmonised in a relatively detailed manner by the 2001/29/EC directive at Community level, it would be worthy to carry forward this harmonisation and to clarify that digitisation by itself does not constitute new works under copyright. This naturally shall not affect the digital reproduction in case of works under protection, it shall remain an action that is a subject of authorisation – except for some highlighted principles e.g. preservation of cultural heritage.

It should be ensured by the force of legal instruments or agreements that digitisation of public domain material made from public funds does not create new copyright, and digitised objects should be made accessible on the Internet for non-commercial use.

The European Commission should elaborate a modern, pro-competitive and consumer-friendly single-market framework for digitising, accessing and licensing digital content online across the 27 EU Member States. After the election of the new Commission, setting-up a European Digital Agenda (EDA) should be a priority task. Within EDA it is an important task to clarify and correct the existing copyright and related rights Directives.

### ***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?*

It should be ensured by the force of legal instruments or grant agreements with cultural institutions that digitised public domain material created from public funds should be made accessible and usable on the internet for non-commercial use. It should be also required that such digitisation should follow common criteria that enable the incorporation of the material into Europeana.

Concerning digital public domain material held by private cultural actors and as a result of digitisation from private funds, cultural actors should be encouraged to make the material accessible on the internet and through Europeana by giving them more visibility.

### ***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?*

Staff and staff related costs should be covered from European Commission funding. Member States should cover operating costs and development expenditure, plus 50% of marketing costs. The remaining 50% should come from private funding like donations, sponsoring, and advertising etc. Foreign travel should be covered by the host country. Member States – and probably ministries responsible for cultural digitisation - would pay their contribution based upon their population and per capita GDP. National cultural institutions cannot finance Europeana on their own, only if they get government funding.

#### ***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?*

Yes, funding of personnel can be justified. Regulations on EU personnel can be applied.

### **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?*

In the governance structure of Europeana only representatives of content providers and representatives of MS agencies that contribute to the operation of Europeana can play a role.

### **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)?*

We would rank technological partnership as the most important private involvement. Europeana intending to have an enormous and international visitor population would be a good platform for technological innovations, which can be a driving force for the private sector to show. Donations and sponsoring would rank second and marketing revenues third.

### **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)?*

Commercial communications that serve not only the interest of the private entity but are beneficial for the user are acceptable. Logos, links or even relevant product promos can hold important information to the user. (Good practises are available worldwide – e.g. Google sponsored links, amazon.com, imdb.com etc.)

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

We support the Gallica 2 model. Links from Europeana to content providers where the user has to pay could generate revenue for Europeana.