



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 1 September 2009

**12814/09
ADD 1**

**AUDIO 32
CULT 54
RECH 254 PI
81**

COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt: 31 August 2009
to: Mr Javier SOLANA, Secretary-General/High Representative
Subject: Commission Staff Working document accompanying the communication from
the Commission to the European Parliament, the Council, the European
Economic and Social Committee and the Committee of the Regions on
EUROPEANA - next steps

Delegations will find attached Commission document SEC(2009) 1124 final.

Encl.: SEC(2009) 1124 final

12814/09 ADD 1

DGI - 2B

NP/ag

1
EN

COMMISSION OF THE EUROPEAN COMMUNITIES

■& "it

Brussels, 28.8.2009
SEC(2009) 1124 final

COMMISSION STAFF WORKING DOCUMENT

accompanying the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

on Europeana - next steps

**Part I: Questions for the public consultation Part II: Overview of
the current content contribution to Europeana by country**

{COM(2009) 440 final}

PART I

The present document complements the Commission Communication on ‘Europeana - next steps’ with a series of questions for consultation. Interested parties are invited to submit their comments on all or some of the questions **by 15 November 2009** to:

European Commission,
Directorate General for Information Society and Media
Unit 'access to information', EUFO 2281
Rue Alcide de Gasperi
L-2920 Luxembourg

or by e-mail to: INFSO.DIGITAL-LIBRARIES@ec.europa.eu

Contributions will be published on the digital libraries website of the Commission, unless requested otherwise by the organisation/person submitting them.

The questions of this consultation all have a direct impact on the future development of Europeana. Some of the questions - in particular questions 7-10 - also have more general policy implications for the digitization, accessibility and use of content from cultural institutions. The replies to these questions will feed into the further policy development in areas such as the re-use of public sector information and copyright related questions for the digitization and online accessibility of cultural material. In the latter area the questions complement the work undertaken by the Commission in the context of the Green Paper on copyright in the knowledge economy and the follow-up Communication. Where relevant, the results of the consultation will be taken up and further discussed in stakeholder groups and working groups with Member States' representatives.

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?

First of all, Europeana should stay a European-oriented project – an access point to the common European scientific and cultural heritage. Therefore, a balanced share of the content from all Member States should be guaranteed as well as a multilingual approach.

Public institutions pointed out that a question “what certain content/data on Europeana should be used for” is to be addressed in the first place. Since Europeana is the only cultural common access point in Europe, it will be used not only to cover as large population as possible, but it will also be used for professional needs (e.g. for a variety of professions in culture and science). For this purpose, current data is not sufficient – additional meta data for existing objects in Europeana would be desired. On the other hand, a kind of content structuring on

Europeana would be desired. It is important to realize that further transmission of new digitized objects and data to Europeana will be carried out in the next several decades, at least as far as archives are concerned.

Further on, experts and professionals, dealing with digitization issues on the level of national institutions, stressed some points that are connected with further development of the Europeana portal. They see competent content providing for Europeana as the fundamental issue. There are several millions of items on Europeana; however they were contributed mainly by some major European institutions. The majority of cultural institutions in Member States have contributed very few materials so far.

As far as Slovenia is concerned, several reasons can be detected:

- Slovenian cultural institutions do not find the Europeana project as their own task or challenge. They do not have enough information and do not see any additional value in contributing their financial and human resources to the Europeana project.
- There are several Europeana-oriented projects going on; Athena and Europeana Local are most topical at the moment. Professionals working in cultural institutions, especially museums, do not quite understand the difference between them; moreover, they do not really understand what is their task and role in the projects. Further on, not the same objects can be digitized in one or another project; the majority of Slovenian museums could take part in both projects, but the coordination between them is rather poor. Athena and Europeana Local, even though they both have highly positive purpose and objectives, are often seen as competitive projects from the institutions' point of view (for example, both projects have one and the same objective, which is »elaboration of technical tools for sending content to Europeana«). Institutions, as well as programme developers, do stress the need for a common set of tools.
- Data on Europeana will be displayed in English. Slovenian cultural institutions find this fact as a major obstacle: they enter data on objects (content) in programmes in the Slovenian language. Therefore they wonder who will translate those data (cover translation costs), which data should be translated and how should translated data be inscribed into certain programmes. This issue is also a task for programme providers and developers.
- Slovenian cultural institutions have a serious shortage of motivation for taking part in Europeana oriented projects, a shortage of information, of human resources and of financial resources.

Therefore, a promotion and information activities on EU and on national levels should be strengthened, a series of training courses for professionals should be organised and a coordination on the EU and national levels should be introduced in order to offer stronger incentives for cultural institutions to devote more efforts and resources to the Europeana project/projects. However, the main incentive should come from the governmental level of national states, above all, in the form of financial contributions.

Annex to question 1:

-----Original Message-----

From: Barbara.Vodopivec@gov.si [<mailto:Barbara.Vodopivec@gov.si>]

Sent: Friday, January 08, 2010 9:02 AM

To: INFOS DIGITAL-LIBRARIES

Cc :

Subject: EUROPEANA - NEXT STEPS, Slovenian Ministry of Culture, Annex to the Questionnaire

Dear Madan or Sir.

On 18 November 2009 Slovenian Ministry of Culture submitted to you answers and comments to the »Europeana - next steps« public consultation. Questionnaire was compiled on the basis of responds from governmental sector, cultural institutions, some business enterprises and some experts.

Among others, a rather poor coordination between projects Europeana Local and Athena on the level of slovenian national institutions has been detected. On this basis also Europeana Local management raised some Questions to the Slovenian coordinator of the project. On the basis of this outcome, on 6 January 2010 Slovenian representatives of Europeana Local and Athena project met with representative of the Slovenian Ministry of Culture. They determined that Slovenian Ministry of Culture strongly supports all activities, connected with digitisation of cultural content, its accessibility and long-term preservation. However, they agreed also upon the fact, that exchange of information between different EU projects could be even more improved. In order to better inform relevant stakeholders about Europeana Local and Athena, as well as about other relevant EU projects, they agreed on several measures. Both project coordinators will include presentations of both projects in their meetings and events. Europeana Local, for example, will invite Athena representative to make a presentation on a forthcoming conference and vice

Versa. Both projects coordinators will also assure presentations and exchange of information about all Europeana based projects, where Slovenian institutions are taking part. All-round exchange of information, of best practices, of certain know-how as well as a wide debate on relevant issues is also a high priority of the ministry. Participants of the above mentioned meeting firmly believe that those measures will highly improve standpoint of content providers to both projects as well as to the Europeana and digital content online projects on the whole. We would like to ask you to add this meeting summary and conclusions as an annex to the Question 1 of the »Europeana – next steps« consultation, compiled by the Slovenian Ministry of Culture.

With best regards.

Barbara Vodopivec, sekretarka/secretary

Ministrstvo za kulturo/Ministry of Culture
Maistrova 10, SI-1000 Ljubljana

Tel: + 386 1 369 5880

Question 2

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

Programmers emphasized that institutions should know what kind of content will be published on Europeana, in what form (format, size), according to what standard and in which language/languages. Knowing that, programmes can be easily adjusted to the requested standards.

Meanwhile, cultural institutions believe that it is worth to consider the possibility of a kind of a content classification of digitized objects on Europeana, since according to the average user and also to the professional user, there are too many very different objects from a variety of historical periods and provenances. The only possible search is based on the name of the historical person or object – with very good possibilities of redefinition of the search by provider, country, type, etc. However, a possibility to select contents upon a certain e.g. historical structure (which should be in more levels) or any kind of other structure (like politics, culture, science, society and health, etc.) would give wider approach to the more possible results, which could be desired when researching.

Question 3

Has Europeana struck the right balance between making Europe's digitized 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?

Providers (institutions contributing material) are quite visible.

Question 4

How should Europeana further develop its own autonomous identity?

Being primarily a common European project (i. e. international project), Europeana should echo a certain influence of Member States also in its identity (reflected in the design of the page, context description, architecture of the site, multilingual approach). Autonomy in relation to possible competitive sites can be gained through as wide free public access to the content as possible.

Question 5

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

From the institutions' point of view, cooperation and continuous long-term endeavours on the whole European level would be more helpful than some kind of prescribed measures. However, at least some basic guidelines for publishing and accessing the Europeana content should be adopted. It is important, for example, to determine a kind of unified form/standard

for publishing of data/content on Europeana. Further on, basic rules on users' rights should be adopted: can Europeana content be only viewed or also used (in articles, research essays etc.), under what conditions, how should users cite sources etc.?

However, archives believe that a kind of minimum requirements can always be helpful, since without any requirement everything is optional only. It would be worth to consider that such large projects as Europeana normally need more time to realize their full potential and influence in the very wide spectrum of memory institutions in Europe. This does not relate only to institutions' decision for cooperation in the project, but also to their realistic possibilities to do so. Namely, to send digitized material to Europeana, a certain amount of work to prepare the relevant data should be carried out. Moreover, the data for professional use are normally composed in completely different mode (more structured and with different sorts of data and formats). Therefore, it will probably take some more time (years) to reach a certain level of organization in cultural institutions and a complete compatibility with Europeana, since their priority at the moment is still their own professional work. Ability of each institution to contribute content to Europeana also depends on the percentage of the already digitized fonds and collections. Some institutions, like film archives and documentary centres, would prefer to cooperate "in their networking" – like The European Film Gateway and archival institutions in the Gateway to Archives in Europe (APENET), which will eventually be incorporated into Europeana. This should be accepted and realized on all levels. Therefore, it is important to support these efforts (networks) due to the fact that they are specially adapted to certain professions and to certain types of material. For these kinds of already existing networks and co-operations and for well known specifics of various cultural spheres, development and establishment of Europeana will certainly take more time.

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?

The categories of works for which users presumably have the most interest are:

- Written works (including literature, research and scientific studies, press articles, journals etc.)
- Audiovisual works (cinematographic works, documentaries, etc.)
- Musical works (performances fixed in phonograms)
- Photographic works and works of fine art
- Theatrical and choreographic works
- Historical museum objects
- Historic buildings and monuments of the architectural heritage
- Archaeological sites
- Archive material (documents of public and private provenance, mediaeval manuscripts and charters, maps, plans, cadastral maps, etc.)
- Rare books (e.g. incunabula, first printing books, etc.)

Digitization of these objects is the most important prerequisite. However, it is important to stress that digitization on the national level is performed according to the national priorities

and according to a variety of factors (e.g. level of damages and use) and not according to the popularity or public interest for the certain objects.

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 digitization and dissemination of in-copyright material? Which legal or practical barriers to this cross-border access need to be addressed?

Legal experts believe that right holders should be offered tentative possibilities for reimbursement (i.e. from public funding) or advertising possibilities in order to encourage them to cooperate to the full extent and make their content available through Europeana. A standard of different levels of exposure (display) should be set, so that the right holders may choose to what extent they wish to disclose their in-copyright works (i.e. snippets of books, tables of contents, front/back page, book summary, complete text of books or different levels of quality of image in the case of works of visual art). Right holders should have some warranty that the operator of Europeana will be able to take appropriate measures in order to prevent abuse (i.e. for commercial use) and that certain technical restrictions will be placed on their content which is available through Europeana. Member States should also actively promote and encourage publishers and authors who are granted state subsidies (support from public funds) to make their projects (protected works) available through Europeana.

Meanwhile, archives emphasized that when digitization is carried out by public finances without private partnerships, no special legal provisions are needed (in the archival sector there are such cases of the national archives in cca. 15 Member States). In case of licensing and agreements with private sector, archival institutions in Europe stress the importance of no clause of exclusivity (stated by 7 Member States – directors of National Archival Institutions, and according to their own situation – these data are cited according to the minutes of EBNA (European Board of National Archivists) meeting in Paris, 18 - 19 November 2008). It is possible to envisage that the cross border access could only be a new dimension to these agreements – which should in any case be dealt with caution. In case of private right holders (for material of private provenance who still keep their rights, e.g. films), it will be obligatory to get a special permission by the right holders. However, in an extreme case, right holders could still claim the rights to be settled and paid by national or other cultural institution (which has send the material to Europeana).

Some museums and galleries have pointed out that they are not in favour of publishing their content (photos, data on museum objects etc.) online, since they fear different abuses (unauthorised reproductions, for example). Clear publishing rules should be therefore determined, as well as clear information for the content providers as far as safety regulations and measures are concerned.

Institutions emphasized an immense importance of the fact that employees in cultural institutions truly believe in Europeana project and in its »added value« for their institution. They have to be certain that Europeana will ease the access to the European culture and bring it closer to end users. It is of the utmost importance that EU and Member States together overcome institutions' hindrances which are, above all, oriented towards the danger of possible online content abuse (even loss of ownership of the content).

Question 8

How can the difference in the level playing field for digitizing 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)?

A research should be made on the problem of orphan and out-of-print works and evaluation of the possibility for introducing a reasonable cut-off rule within the EU.

A database of orphan and out-of-print works should be made (for example similar to the Book Rights Registry provided by Google in the Google Book Search project) and rules providing safe harbour or copyright infringement defence for users who can prove that they have used reasonable efforts to search for right holders before they use an orphan or out-of-print work.

Question 9

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

It was suggested by legal experts that possible changes to copyright legislation should be considered (providing it is immediately and efficiently harmonised in all Member States of EU) – in order to enable broadest possible use of works through Europeana (i.e. compulsory license with the possibility of equitable remuneration).

However, cultural institutions pointed out that it is very difficult to avoid situation described in the question, since creation of digitized collection involves not only digitization of these works, but also substantial preparation works (which could take 1-2 years for an extensive collection, e.g. cadastral maps), creation of all needed meta data and normally also detailed professional description of the object as well (content and context, including the state of object's preservation). However, due to the fact that the majority of these data bases are created by public finances, there should be exemptions in protecting these institutional rights (like special agreements with creators of these data bases). That should be applied especially for common projects, designed for general public (like Europeana), and for projects which significantly contribute to the dissemination of information, kept by those cultural institutions. The changes of copyright legislation on the general level would be difficult to achieve (especially for the purposes of one project only). Since copyright legislation is complex, possible changes should be carefully examined.

Question 10

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

Legal experts believe that universal and clear rules (format) for making available content in public domain and for making available in-copyright works (in the scope allowed) should be made - for example universal format of displaying books, data on the availability of the books, links to the publisher etc. should be used by all libraries. Similar rules should be made for all public institutions (galleries, museums, film archives etc.). There should be a central body in each Member State which would operate the process of digitalising and making the content available, and which would control and advise right holders and public institutions on the scope and manner of display – in order to achieve universal and wide availability of public domain and in-copyright works through Europeana.

However, cultural institutions believe that one should always bear in mind that institutions do not digitize because of Europeana project but because of national programmes (financed from the public money) and according to their own professional priorities (which material is in priority, what kind of material is to be digitized, what is the best format to do that, how certain content will be preserved etc.) Of course, a variety of different formats should be avoided, but even for the archival sector, we can not speak about one format only. There are many or at least some adequate formats, suitable for long term preservation. Moreover, standardization of formats in different fields would be even more difficult. Probably one universal format could not be an option.

Respondents from governmental sector pointed out that the most important point, as far as Europeana is concerned, is that all material and content that was digitized from public money should have open access. The Cultural Heritage Protection Act contain such an article, however it has not been implemented yet. They also believe that national/sector aggregators are a must, however not one single national aggregator should be foreseen, since profession and material/content differ from one another so much that it is impossible for only one institution to cope all sector specificities.

Further on, cultural institutions stressed that a formation of a “central body in each Member State, which would operate the process of digitization” can have positive and negative effects. Centre could act as an advisory body for institutions that do not have enough knowledge, know-how and budget resources to digitize (that would apply above all to regional institutions). On the other hand, such a centre could represent an obstacle for a fast and efficient development, since institutions themselves have a lot or even enough of professional expertise on how and what to digitize. Not least important is the question, what will be the position of such a centre and how the equal representation of different professions will be assured. Libraries, for example, have completely different experiences, know-how and challenges than archives. The centre should therefore be completely independent and have utmost respect for all professions (museums, archives, libraries, AV). Further on, it is important to determine who will decide on the priorities and hierarchy of material/content to be digitized (according to damage, usage, value, threat) since this is primarily a professional decision.

Nevertheless, cultural institutions believe that, regardless of the manner or organization, digitization process will go on for at least several decades, because of poor financial and human resources (European Archives Group stated on January in Brussels that only 1 – 2 % of archival material has been digitized so far) and also because of increased danger of natural disasters in Europe (floods in central Europe after 2002 and even collapse of the city archive in Köln).

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?

Legal experts stated that private initiatives for systematic digitization and making the digitized content available to the public should be promoted and certain financial incentives offered (either through available public funds, tax reductions or advertising possibilities) as that seems to be an attractive model for private companies as well as libraries or public institutions (for instance the Google Library Project).

However, cultural institutions believe that political stimulation of public-private partnership in the field of digitization should be treated with caution. Many institutions have to cope with legal and financial hindrances as far as cooperation with private sector is concerned. They do not oppose the model, however they continue to digitize with their own resources. An EU-wide survey or study on how different institutions digitize their materials and how they finance the process at the moment would be a very useful basis for a more structured approach to public-private partnerships. Institutions have stressed once again that digitization is first and foremost a national project, and therefore each Member State should be free to choose the model of digitization according to its legal and financial possibilities. They are not against so called "private model", but this should not be the only alternative.

As far as financing of Europeana is concerned there were no hesitations in respect to private financing of the portal and the Foundation. There should be sponsoring, advertising, paid links to commercial sites etc. However, as all our respondents emphasized, private initiatives should not in any case endanger free public access to public domain works.

Most important is to find a sustainable non-project oriented model of financing, where public-private partnership is only a complementary option to continue public financing.

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?

A sustained funding after 2013 would certainly be needed, since such a large project created by public finances, by public materials (in the public domain) and intended for the general public, can not just disappear after the project period comes to an end. Especially due to the fact, that ever more cultural institutions are expected to organize and start participating with their materials in Europeana in the coming years.

The type of funding instrument is difficult to define - however a common EU financial support for such an European large project would be desired. Additional sponsorships and “secondary incomes” (a limited marketing of the site itself) would also be of help.

Even more, some of our respondents believe that a constant continuous (co)financing of the project from the EU resources is a must, since too many projects, successfully started with public money, have vanished, as soon as public financing dried up.

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?

All this depends on the mode of further development of the project – which priorities will be set and consequently which organizations will have a place in the governing structure.

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)?

All the options suggested above could be possible and acceptable – however, this relates to the project Europeana itself. Technological partnerships for creating, managing and updating of data basis would be a good solution as well, as long as the public character of the project is maintained. But on the national level, as far as digitization projects are concerned, private involvement should be optional and should be based on national decisions.

Respondents from the business sector find participation of the private sector in Europeana project most wellcome. They exposed several possible models, such as sponsorship, advertising on the web site, free services, such as scanning, translation, photography etc.

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)?

Private sponsorship would be desired, but the stimulation depends on the appropriate targeting of private undertakings. Commercial communications on the Europeana site would be acceptable, however, certain selection of the products on offer would be desired (e.g. bookshops, publishers, museums’ and archives’ facsimiles and reproductions, lectures, education possibilities, IT products, etc.). So that the image of the site would fit into the “intellectual framework” of the whole project (for instance clothing and food products would be contrary to the basic principle of the “cultural project of Europeana” and would probably be viewed as ‘in bad taste’).

Respondents from the business sector believe that contributions to Europeana from donators and private enterprises are most wellcome, since the biggest risk of publically financed projects is that they vanish as soon as public financing dries up. Contributors, public or

private, should be by any means mentioned on the website, especially when private sources contribute significantly to the development of the site. Presentation of sponsors on the site can be done in many different ways, such as short description, logo, contact information, link to their page, special offers. Sponsors can be as well presented on special link, so that they don't interfere with basic outline of Europeana page. It would be interesting to mention a so called »revenue sharing« model, where museums, for example, would get a certain share of the advertising money. The share would depend on the number of displayed objects, number of ads 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?

Yes. These kinds of links can significantly contribute to the richness of the “central European cultural point”. However, such a privileged post should also be charged.

On the other hand, as respondents pointed out, payable access for the users could be in contradiction with the basic idea of Europeana, whose aim is to offer free public access to the common European cultural and scientific heritage. Some users will not be able to pay or would oppose the idea of payable content. Advertising, however, should be payable, such as links to private or public institutions/providers. The fee could be payable in money or in any other form (publishing a certain amount of the publisher's/advertiser's publications on Europeana, for example).

PART II

Overview of the contribution of Member States to Europeana in % of the total number of objects (situation end July 2009).

EU countries

France	47%
Germany	15.4%
Netherlands	8%
United Kingdom	7.9%
Sweden	5.2%
Finland	4%
Greece	1.6%
Italy	1.2%
Belgium	1.1%
Slovenia	0.7%
Spain	0.6%
Estonia	0.4%
Luxembourg	0.4%
Poland	0.3%
Romania	0.3%
Austria	0.2%
Portugal	0.2%
Hungary	0.1%
Latvia	<0.1%
Cyprus	<0.1%
Bulgaria	<0.1%
Czech Republic	<0.1%

Denmark	<0.1%
Ireland	<0.1%
Lithuania	<0.1%
Malta	<0.1%
Slovakia	<0.1%

Non EU countries

Norway	4.3%
Switzerland	0.4%

EN

EN