

Image rights, art history and society



Jean Siméon Chardin, *Le Jeune élève dessinant* [*The young student drawing*], c.1738, oil on panel, 21 x 17.1 cm, Kimbell Art Museum, Fort Worth. Source: Wikimedia/Google Art Project. Licence: Public Domain.

A report on the systems regulating the circulation of images of works of art and their impact on scholarship, teaching and the visibility of French public collections

Presented to the Fondation de France

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Introduction

This report concludes a study carried out between September 2017 and September 2018 as part of the Images-Usages research programme coordinated by the INHA at the request and with the support of the Cultural committee of the Fondation de France.

The project came about in response to an alarming situation. At present, the costs and conditions governing the reproduction of images are having a profound impact on the way we study and promote our cultural heritage. This report takes a closer look at the current state of affairs, offers some examples of best practice and makes recommendations on how the situation might be improved.

The topic is complex; not only must the question be considered from a technical, legal and financial point of view, but also from an international perspective. Art history, archaeology and cultural heritage are inherently cross-cultural and cannot be penned in by national borders (**Part IV**).

The study considers the use of images in research, academic publishing, collection management and dissemination activities, but also in relation to commercial activities such as publishing, journalism and the creative industries. It also considers new and emerging practices in image use born of the digital era (**Part V**).

The report focuses on how images are used in art history, and how this is framed by the French legal system (**Parts I-III**).¹ It then takes a closer look at initiatives taken by institutions and individuals to encourage the circulation of free images (**Parts IV and V**).

It is important to note that the many interviews, questionnaire responses, papers, articles and social media posts studied as part of this project revealed that the difficulties long faced by art historians seeking to use images of works of art in their work expose deeper-rooted issues facing cultural institutions today. Questions around public access to knowledge, fulfilment of core missions and public service obligations, the need to bridge skill gaps and support career development, to increase social impact and build new business models emerged throughout.

The study took place in a fast-evolving landscape, interspersed with a number of debates and court cases both in France and in Europe around intellectual property and what qualifies for exemption from copyright. A week before

concluding the report, consultations were still underway and the results of the second vote on the European Copyright Directive (12 September 2018) were announced.² This volatile context is in large part due to the growth of the internet and the hold it now has over all aspects of social and professional life. The digital image is a new academic and cultural tool that is transforming the discipline of art history (**Part II**). New collaborative practices, open licences and open data policies are emerging and being used to leverage progress, just as cultural institutions are beginning to shape their online presence.

The climate appears to be one of tension between, on the one hand, new and innovative opportunities brought about by digital technology across a growing number of domains, and on the other hand, cultural, administrative, legal and commercial systems that are struggling to embrace and adapt to change quickly enough to avoid conflict and growing pains. Transformation is underway, albeit slowly, and while this report is not intended to be a manifesto, it captures the position of academics, teachers, students, digital specialists, collection managers and publishers involved in this transformation, who are quoted verbatim in **Part III**.³

Two corpuses of images must be considered when looking at image use, both in France and elsewhere: works protected by copyright (or “droit d’auteur” in French) and works that are in the public domain. With age, works protected by copyright fall into the public domain. It is important to remember that this notion was created to ensure that artists and their successors are justly paid for their work. The two bodies of images can by no means be considered through the same lens. The legitimate call to open up access and use of public domain images does not apply to works protected by copyright, for which leverage can only be sought through copyright exceptions such as those granted through *Fair Use* in the US.

¹ The need for an initial overview of the legal context became apparent during discussions with professionals who deplored the lack of clear guidance on this matter when sourcing images for their work.

² Article 13 of the proposed directive, which addresses cultural content online, could have a marked effect on the question. See https://www.lemonde.fr/pixels/article/2018/09/12/le-parlement-europeen-adopte-la-directivesur-le-droit-d-auteur-a-l-heure-du-numerique_5354024_4408996.html (consulted 16 September 2018).

³ This is the first report on open cultural content to focus on the French community of visual arts professionals.

Art historical research, academic publishing and the promotion of public collections comes at a cost. What safeguards do we have in place, particularly with regards to young scholars and academics who are often required to foot the bill for reproduction fees and comply with ill-fitting restrictions on usage? How can academics and museum professionals promote French contemporary art if they are constantly threatened by legal action? These questions, which rang out throughout the series of interviews, the 240 completed questionnaires⁴ and the meetings and informal discussions held as part of this study, highlight the clear correlation between intellectual activities and the visibility of French public collections. The value and relevance of France's cultural heritage will greatly diminish if art history professionals are censored or forced to use underhand techniques to procure images, and in doing so led to question the legitimacy of their practice.⁵

This report seeks to offer a snapshot of a confused and little known ecosystem. Faced with the impossibility of treating all facets of the question, a number of recent and well-documented articles, reports and publications focusing on the technical, financial and legal implications are referenced throughout and continue to be of relevance today.⁶ The important recommendations listed in these publications are to be considered alongside those made at the end of this report.

⁴ See <https://iconautes.inha.fr/fr/questionnaire.htm>

⁵ Such consequences are already listed in the College Art Association study on the difficulties faced by American art history professionals seeking to use images of works of art protected by copyright. See <http://www.collegeart.org/pdf/FairUseIssuesReport.pdf> (Aufderheide & Jaszi 2014). The legal context being very different from that of France, the aim of this study was to provide American visual arts professionals with a practical guide on how to comply with Fair Use.

⁶ See in particular Rapport OpenGLAM 2012, Domange 2013, Trojette 2013, Farchy & De La Taille 2018.

Executive Summary

The below table summarises the four principal observations and recommendations that have emerged from the Images/Usages research programme.

Observations are detailed in **Part III** and a full set of recommendations is listed in the conclusion of this report.

Intangible cultural heritage	Observation	Recommendations
Images protected by copyright	A legal framework that encourages visual arts professionals to skirt around intellectual property regulations	<p>Update copyright exceptions to permit the use of fine art images in teaching and research.</p> <p>Clarify the legal justification for copyright being claimed on photographs of works of art for commercial use by the public sector.</p>
Images in the public domain	Persistent claims of copyright on works that have fallen into the public domain	<p>Adopt a national policy to free and promote images of works in the public domain.</p> <p>Ensure access policies are coherent across the sector.</p> <p>Agree on a reasonable definition of what constitutes commercial and non-commercial use.</p>
Knowledge and information around public collections	Limited visibility for French cultural heritage and associated activities (research, teaching, curation, conservation, publishing, collaboration, creation, transformation, etc.)	Provide greater access to public collections and encourage users to use and engage with their cultural heritage.
Digital strategy	Visual resources that are out of step with the digital environment and do not foster innovation.	Anticipate and adapt to new and emerging practice around visual art by providing high quality images and associated metadata, accompanied by tools and licences that meet the needs of diverse users.



Antonio Forbera, *Le chevalet du peintre* [*The artist's easel*], c.1686-1690, oil on canvas, 161,5 x 94,5 cm, Musée Calvet, Avignon. Fondation Calvet-Avignon Musées, photo Caroline Martens.

Part I

The legal framework regulating the circulation of images of works in French public collections

Art professionals using reproductions of works of art held in French public collections must respect the intellectual property rights of the artist who created the work of art. This proves a particularly arduous task due to the grey area around exemptions. To complicate this further, rights continue to be applied to reproductions of works of art that have fallen into the public domain.

1.1

Author's rights, intellectual property and exceptions applied to images of works of art

In France, the rights associated with literary and artistic property are detailed in the *Code de la propriété intellectuelle*. Formulated in the *Loi n°57-298 du 11 mars 1957 sur la propriété littéraire et artistique*, this act is regularly updated to reflect the latest legislation. The most significant changes were brought about by the *Loi Dadvsi* in 2006 and the *Loi pour une République numérique* in 2016.

French law recognises two types of author's rights: proprietary rights and moral rights.



Anonymous, *Court sitting trying prisoners in the Justice Hall of Old Bailey*, Burin and etching, 14,7 x 9,5 cm, Wellcome Collection, London. Source: Wellcome Collection. Licence: CC-BY

Proprietary rights granted for a limited period of time

Proprietary rights cover reproduction rights, representation rights and resale rights. As resale rights are not related to the use of images of works of art, they will not be addressed in this study.

Reproduction, as defined in article L.122-3 of the *Code de la propriété intellectuelle* is "the material fixation of a work by any process permitting it to be communicated to the public in an indirect way". Photography and recording are considered to be material fixation processes.

Representation concerns the public presentation, public projection and transmission of a telediffused work in a public place (see article L122-2 of the *Code de la propriété intellectuelle*).

These reproduction and representation rights belong to the creator of the work of art, and to his or her successors for a period of 70 years from the 1st January of the year following the death of the artist. Throughout this period, the artist and his or her successors can grant permission to reproduce or represent a given work of art in exchange for royalties.

Moral rights: perpetual, inalienable and imprescriptible

In France, the artist benefits from a perpetual right to respect his or her name and status, and the integrity of the work (article L.121-1). This moral right protects the unique nature of the work and is passed from artist to successors. This means that an artist can control the eventual fate of works, refuse that a work be used in a discriminatory way and insist on attribution.

Who owns proprietary and moral rights?

The ownership of a physical work of art does not equate to ownership of the associated proprietary rights. Unless an artist assigns, donates, or sells his or her rights to the owner of the work, it is not possible for an owner, such as a museum, to grant permission to reproduce the work.

Do the photographers who reproduce works of art have any rights?

Despite requiring significant skill and technique, exact copies of works of art are not protected by author's rights as they do not qualify as original works.⁷ To be considered original, the personality of the creator must be apparent. The act of applying author's rights to servile copies of public domain works is known as "copyfraud". For certain reproductions of works in three dimensions (such as sculptures and installations) or works in context, photographers can claim proprietary rights providing they can demonstrate that they have adopted a creative approach. However, under no circumstances can the institution holding reproductions of works in their collection claim author's rights for reproductions that have been taken by their staff.⁸

⁷ For a history of case law in this area, see Domange 2013, p.27-29.

⁸ The *loi n° 2006-961 du 1er août 2006 relative au droit d'auteur et aux droits voisins dans la société de l'information* states that civil servants own the copyright for works that they have produced as part of their job description. However, according to article L131-3-1, "when these are produced strictly as part of a public service mission and under instruction from management, the right to exploit a work created by a civil servant falls entirely to the State". There remains some uncertainty regarding payment when the public service makes a profit on the work through commercial or non-commercial activities. The terms for such situations should be outlined in a decree which is taking some time to materialise.

Exceptions that cannot be applied to teaching and research in art history

Article L. 122-5 of the *Code de la propriété intellectuelle* recognises a certain number of cases in which works protected by author's rights can be used without the need to seek permission from the rights holder and without paying royalties. The most well-known exemptions are for private copy, short citation, auction catalogues, press reviews, educational use and, most recently, "freedom of panorama" which allows individuals to reproduce permanent works of architecture and sculpture found in public places for their personal use.

A particularly restrictive educational exception

Exception 3 (e) of article L. 122-5, often referred to as the "educational exception", refers to sectoral agreements negotiated between France's Ministry of Education, Ministry of Higher Education, Research and Innovation, and rights management agencies working on behalf of visual artists.⁹ It is only applicable when showing reproductions or representations to an audience "composed mainly of pupils, students, teachers or scholars" and when "the use of the reproduction or representation does not result in commercial use and is covered by an agreed fee that does not compromise reprography agreements as outlined in article L. 122-10". The agreements stipulate that only 20 works protected by author's rights can be shown in the classroom or on the Intranet for any given class or research topic. The resolution must not exceed 400x400 pixels and 72 dpi. The protocol also makes provision for printed copies of doctoral thesis used for the purposes of a PhD viva, along with an online version in accordance with conditions outlined in the agreement. A number of ambiguities persist in relation to what constitutes an educational activity and whether certain workshops, colloquium and conferences that are open to members of the public fall under the terms of the agreement.

The inability to "cite" extracts of works of art

According to case law, an academic cannot use part of an image of a work of art under the "short citation" exception. Furthermore, using an extract without the necessary permission could potentially misrepresent the original work of art and infringe an artist's moral rights.

A freedom of panorama limited to personal use

The use of photos of works of architecture or sculpture in public spaces is not exempt from rights if the work is the focus of the image or if it used in a professional capacity.¹⁰ Art historians who have taken pictures of buildings and sculptures in public spaces can use them for personal use, but they cannot be used in the classroom or in publications.

⁹ *Protocole d'accord sur l'utilisation et la reproduction des livres, des œuvres musicales éditées, des publications périodiques et des œuvres des arts visuels à des fins d'illustration des activités d'enseignement et de recherche du 22 juillet 2016* (consulted 17 July 2018). See http://www.education.gouv.fr/pid285/bulletin_officiel.html?cid_bo=106736

¹⁰ To find out more about the controversies around this exception, particularly in relation to digital use, see Farchy & De La Taille 2018, p 187-190.

The public domain

70 years after the death of the artist, author's rights expire and their works fall into the public domain. Subject to compliance with moral rights, which remain perpetual in France, the public is free to reproduce these works of art without seeking permission and without paying royalties. The time period is extended for a period of 30 years if the artist "died for France".

Taking photos in public places

Public collections do not hold exclusive rights over the images of works in their collections that have fallen into the public domain, even when these are used for commercial purposes.¹¹ A public body can only contest use if it can be proved that this has caused "disturbance".

Preventing visitors from taking photographs on the basis of an institution's internal rules and regulations can also be contested from a legal perspective as the law always prevails over internal rules and regulations.¹²

With this in mind, a best practice charter, "Tous Photographes", was launched by the French Ministry of Culture in 2014.¹³ This charter proposes a framework for taking photos in museums and national heritage sites in the digital age and encourages the sharing and dissemination of visitor photos.

¹¹ See the State Council's judgement delivered 13 April 2018 in the Kronenbourg vs. National Domain of Chambord case (consulted 7 July 2018). See <http://www.conseil-etat.fr/fr/arianeweb/CE/decision/2018-04-13/397047>.

¹² A strong movement challenging this practice is forcing some museums to review their policy on visitor photography. See Pierre Noual, *Photographier au musée, Guide de sensibilisation juridique à l'usage du visiteur-photographe* [online], 2017 (consulted 7 July 2018). See <https://invisu.inha.fr/fr/ressources/dossiers/droit/photographier-au-musee.html>

¹³ *Tous photographes ! La charte des bonnes pratiques dans les établissements patrimoniaux* [online], Ministère de la Culture, 7 July 2014 (consulted 7 July 2018). See <http://www.culture.gouv.fr/Espace-documentation/Documentation-administrative/Tous-photographes-!-La-charte-des-bonnes-pratiques-dans-les-etablissements-patrimoniaux>

1.2

The Art reproduction market

Permissions and royalties

In order to use a reproduction of an artwork that is still protected by author's rights, unless subject to an exemption, permission must be sought from the artist or successor, and in general a royalty must be paid.



Victor Jean François Dollet, *Marchand d'estampes [Print dealer]*, 1850, lithograph, 23,9 x 34,3 cm, Rijksmuseum, Amsterdam. Source: Rijksmuseum. Licence: Public Domain.

The assignment of proprietary rights

Artists and their successors can manage their own rights, but to simplify the handling of multiple licence agreements and associated royalties, most tend to assign their rights to a collective rights management organisation who look after these on their behalf. Artists must receive a proportionate share of the proceeds from image sales and the fees associated with sectoral agreements. Artists are free to make their works available to the public as long as they respect their contractual engagements (article L.122-7-1 of the *Code de la propriété intellectuelle*).

Collective rights management organisations

In the French visual arts sector, there are two principal collective rights management agencies: the ADAGP (*Société des Auteurs Dans les Arts Graphiques et Plastiques*) and the SAIF (*Société des auteurs des Arts visuels et de l'Image Fixe*). These are private organisations that are recognised as serving a public interest and operate under the auspices of the Ministry of Culture. They are responsible for drawing up sectoral agreements, like those in place with the Ministry of Education and certain search engine providers, and they collect and redistribute associated proceeds and royalties.

An independent commission was put in place in 2000 to oversee the accounts of all rights management organisations operating on behalf of the Ministry of Culture. The operators, however, are free to set prices and fix their terms and conditions.

The business of selling images of public domain works

Although the commercial image library sector counts a number of private operators (Bridgeman Art Library, Scala, AKG, etc.), the photographic agency of the Réunion des Musées nationaux et du Grand Palais dominates the market for images of works held in French public collections. Several institutions and city museums have opted to manage their own commercial image libraries or to subcontract to a private agency, but the majority of museums continue to sign exclusive contracts with the RMN-GP.

La Réunion des Musées Nationaux-Grand Palais

Since 1946, the sale of images of works from French national museums has been the responsibility of the photographic agency of the Réunion des Musées Nationaux (and of the Grand Palais des Champs-Élysées from 2011), the commercial wing of the RMN which falls under the responsibility of the Ministry of Culture. Formalised by decree on 13 January 2011 (*Decret n° 2011-52*), the RMN is charged with "putting all necessary processes in place to ensure the promotion of culture, to strengthen the art market and to reinforce France's cultural, scientific and economic image" (Article 2).

The RMN-GP undertakes large-scale image capturing campaigns on the basis of public service contracts with the national museums. These contracts outline how proceeds from the sale of images will be collected and shared.¹⁴ According to the terms of these contracts, often exclusive and not subject to public procurement processes, the national museums must provide the RMN with photographs of all images held in their collections along with associated metadata. The proceeds are split 50/50 between the institution and the RMN-GP.

Through its website, *Images d'Art* (Images-art.fr), the general public has access to all images held by the RMN. These can be downloaded free of charge for personal use in 72 dpi, provided they

¹⁴ Decree n° 2011-52 stipulates that reproduction fees must be fixed in advance, communicated to the public and be non-discriminatory.

are not reproduced, represented, shared, adapted or modified without prior written consent from the RMN. According to the terms and conditions of the site, "the use of images in high resolution must be subject to an explicit contract with the RMN-GP through its photographic agency". As for fees, pricing brackets are fixed each year, but these are not publicly available. According to the website :

"image fees depend on use and take into account reproduction costs associated with photographing and cataloguing the work, even for works that have fallen into the public domain"

What image reproduction fees are art history professionals required to pay?¹⁵

Whether they be using images of works protected by author's rights or of works of art that have fallen into the public domain, art history professionals do not benefit from any legal or contractual exceptions by default. While costs can vary significantly according to usage (depending on format, quantity, quality, etc.), a fee will be applied and this can often prove very costly.

The use of images of works of art is therefore very restrictive, open to legal interpretation and governed by terms and conditions laid down by the commercial image libraries. Combined, these restrictions are ill-adapted to the needs of art history professionals and, as this report will demonstrate, prevent them from accomplishing their day-to-day tasks.

¹⁵ For the purposes of this study, "art history professionals" refers to all professionals involved in non-profit activities around art history including research, teaching, publishing and exhibiting works of art.





Henri Meunier, *Een vrouw met een hoed en een lorgnet bekijkt prenten die in een vitrine liggen* [A woman with a hat and glasses looking at prints in a display case], 1900, lithograph, 14,1 x 9,1 cm, Rijksmuseum, Amsterdam.
Source: Rijksmuseum. Licence: Public Domain.

Part II

Images as the historical and methodological backbone of art history

Art history, and particularly art historical scholarship, represent a little-known discipline. This section sheds some light on art historical practice – past and present – around reproductions of works of art. Reproductions have always been omnipresent in all activities related to the visual arts, from collection through to management, study and dissemination, and continue to play a pivotal role in art historical scholarship.

2.1

Visual practice in art history

Approaching and appropriating works of art through their reproduction

This report does not consider the iconic value of images, but rather their role as surrogates of original works of art. These surrogates are the principal research tool on which scholars have always relied.

From the very beginnings of Humanism, scholars would travel – income and status permitting – to examine, sketch and reproduce works of art for their study, or make arrangements for a drawing or engraving to be produced if they were unable to see the work in person.

Vast bodies of reproductions, and increasingly sophisticated reproduction techniques, grew alongside the development of connoisseurship.¹⁶ Indeed, it could be argued that the personal collections of drawings, prints, engravings and later photographs collected and catalogued by eminent art historians lay **the methodological foundations of the discipline.**¹⁷

Personal photographs remain a vital tool for art historians and archaeologists who continue to travel to see and document works found on the walls or in the reserves of museums (see Table 2). Museum archives also reveal the appropriation techniques that have characterised visual investigation for centuries. The art of cropping, enlarging, compiling, grouping and assembling images is central to art historical study and a necessary means of bringing stylistic or iconographic considerations to light.¹⁸ These activities existed well before the advent of digital technologies and lay the foundations for connoisseurship, one of the most important traditional approaches to art history based on an “intimate” understanding of the work and the creative process.¹⁹



Figure 1: Presentation of a panel from the Mnemosyne Atlas.

¹⁶ For a host of examples, see Lurin & Morana Burlot 2017.

¹⁷ Kamposiori et al. 2013.

¹⁸ Maginnis 1990, p. 115: “As vision is not a simple question of looking, of retinal snapshots and photo-like memory images, but rather an active, selective process guided by intentions, expectations and anticipations, it is conditioned by our notion of relevant features”.

¹⁹ See Guichard 2010 on the evolution of connoisseurship and the limits of autography.

Publication, interpretation and promotion

It is when making the important step of **publishing scholarship** that the question of image quality arises. Visual documents that may have proved useful in the research stages, such as personal photos, tend to be of an insufficient quality for print. It therefore becomes necessary to procure high resolution reproductions which, more often than not, incur a fee. Research and publications come at a price and the question of who should cover these costs necessarily arises (see **Part III**).

Table 1: Principal uses of images by academics and teachers (organised by institution type and in order of importance from 1 to 9)

[Source: *Images/Usages Questionnaire*]

The different uses of images according to type of institution are listed in order of importance from 1 to 9. For universities and art schools, for example, images are used first and foremost in teaching activities.

	Universities	Research Institutes	Art schools	Museums	Main formats requested
Teaching	1	4	1	5	HD (300 dpi minimum)
Conferences	2	1	2	4	HD (300 dpi minimum)
Print publications	3	2	3	1	HD (300 dpi minimum)
Print articles	4	3	4	3	HD (300 dpi minimum)
Exhibition marketing	7	7	5	2	HD (300 dpi minimum)
Online publications	5	5	7	7	HD (300 dpi minimum)
Online articles	6	6	6	6	HD (300 dpi minimum)
Social media	8	9	8	8	
Blog posts	9	8	9	9	
Other	Personal documentation	Internal communications	Funding applications	Documentation	

Scholars are not alone in their reliance on quality reproductions. A number of professionals involved in the management, study and dissemination of images of works of art require high resolution files in their day-to-day activities (see Table 1). These include:

- Teachers working in higher education institutions (in order to project still and moving images within the classroom, to circulate digital and printed learning materials, and to build and share slide libraries);
- Museum professionals (in order to support curation, conservation, cataloguing, marketing, publishing, interpretation and communication);
- Academic publishers (to illustrate journals, conference proceedings and catalogues);
- Fine art publishers.

People working in other disciplines may also require high resolution reproductions to illustrate or support their work. A number of other humanities subjects, such as archaeology, history, and geography, involve the study of art historical objects, making image use a **far reaching concern** that goes well beyond the confines of the discipline.

While visual tools and aids have always been integral to the discipline, the growth of digital technologies has had a profound effect on the way art historians approach and study images.

2.2

New tools and working environments

Digital tools

Art historians have long been reliant on visual aids to support and share their work, but there has been a significant shift in practice of late and our understanding and appreciation of images has been deeply affected by the **dynamic and interactive environment in which digital images are viewed**.²⁰

The zoom function is now a staple feature in most online image libraries.²¹ Initially something of a gadget, it is now an essential tool for the close examination of works, not only in two dimensions but also in low and high relief.

Online platforms and programmes also make it possible to visualise multiple images simultaneously and a number of tools and platforms have been built and adapted to create a comfortable environment for considering, comparing and manipulating images (see Projet Digital Mappa, Mirador, and more recently, ARIES).²²

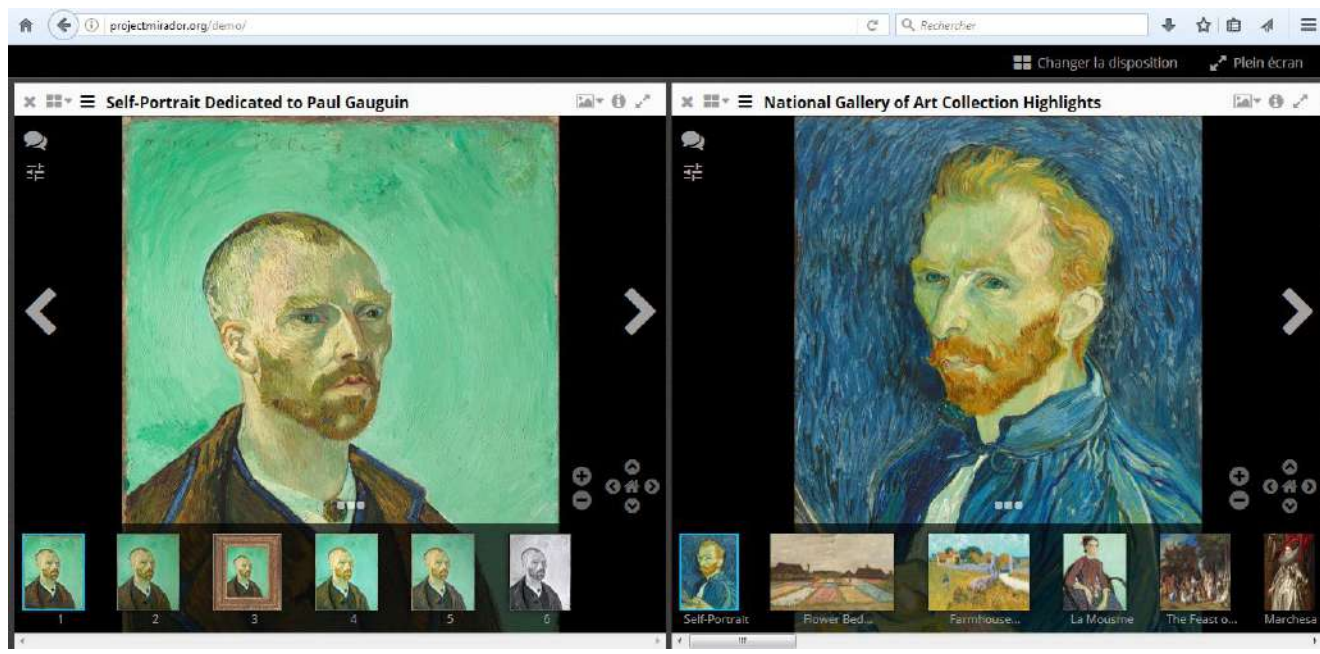


Figure 2: Demonstration screen from the Mirador Visualiser

²⁰ The 2012 INHA study session, *L'image-document face au numérique : mise en crise ou mise en lumière?*, addressed these themes. See <https://observatoire-critique.hypotheses.org/1495> and in particular the paper by Corinne Welger-Barboza, *L'Histoire de l'art et sa technologie-Concordance des temps*, <https://observatoire-critique.hypotheses.org/1862>.

²¹ See, for example, the websites of the Prado and the Musée des Beaux-Arts in Lyon.

²² Digital Mappa: <https://digitalmappa.org/>; Mirador: <http://projectmirador.org/demo/>; ARIES: <https://artimageexplorationspace.com/>

Indeed, the act of comparing and formulating visual arguments is currently seeing something of a renaissance. Heinrich Wölfflin's double projection of images and Aby Warburg's Atlas Mnemosyne have inspired a number of contemporary projects that seek to capitalise on the epistemological, cognitive and collaborative potential of virtual working environments through fluid and intuitive interfaces suited to both the habits and needs of the visual art professional. Mainstream image manipulation software such as Photoshop, Adobe Bridge, DigiKam and Gimp, can be used to give shape to, and challenge, the scholar's arguments and hypotheses.

The discipline also takes advantage of the unprecedented opportunities for **digital metadata archiving** brought about by applications such as Adobe Bridge, Tropy and Omeka. To be useful, an image must be accompanied by structured data. Unlike the information that was scribbled down on the back of index cards used to carefully catalogue reproductions in the past²³, or etched into the memory of the scholar, contemporary metadata is fully searchable and can be used to provide both a physical and documentary trace of the work.

Table 2 : Where academics and researchers source their images (organised by institution type and in order of importance from 1 to 7)

[Source: Images/Usages questionnaire]

The sources of images are given a number that reflects their importance for each of the user groups that responded to the questionnaire. For universities and art schools, for example, most images are sourced via search engines and online museum collections.

	Universities	Research institutes	Art schools	Museums
Search engines (such as Google Images)	1	3	1	2
Online collections	1	2	2	1
Personal photos	3	1	2	4
Commons (Wikimedia, Flickr, etc.)	4	5	4	5
In-house image libraries	5	4	5	3
Scans of images in books	6	6	6	6
Subscription image libraries (such as ArtStor)	7	7	7	7
Others	Direct contact with the artist; screen shots	Facebook pages (artists, galleries, etc.)		

²³ Which is why it is so important to capture all documents in digitisation programmes such as the Replica project at Lausanne's DHALab involving over a million photographs from the Giorgio Cini Fondation.

Digital resources, formats and initiatives

Propelled by **mass digitisation campaigns**, eminent institutions such as the Getty Research Institute, large digital infrastructures such as Europeana, and smaller specialised initiatives,²⁴ have fostered an appetite among the general public and new generations of researchers for increasingly “visual” resources. For the **trained eye of the art historian**, the growing availability of high resolution images opens up unprecedented opportunities to engage with visual material. The hierarchy of information is turned upside down, paving the way for new discoveries. During a recent workshop, “L’histoire de l’art à l’épreuve du numérique” organised by the InVisu research laboratory,²⁵ Charlotte Guichard presented important discoveries around graffiti and signatures viewed in high definition.²⁶ This “hyper-view” casts a new light on works as minute details and hidden inscriptions emerge. As well as offering new research material, these high quality images present the amateur with new opportunities to look at art works with the eyes of a professional.²⁷

In parallel, an increasing number of **publishing options** are now available to art historians, all with the same visual focus that intuitive interfaces infer. These rely on plentiful, quality illustrations that can be used without restriction.²⁸ In addition to online journals and editions, a number of customisable digital formats have been developed encouraging new, collaborative and interdisciplinary approaches to the publication and dissemination of research.²⁹

Hybrid publishing models are also emerging, such as online theses accompanied by digital catalogues or working spaces that support further research and collaboration.³⁰ In this context, the question of image rights acquires a renewed urgency. Reproductions are no longer simply studied privately or collectively, but become a core means

of locating, researching and validating knowledge. As a result, new questions arise: how can one be sure that the visual arguments put forward in such environments (through maps, collages, crops, timelines, etc.) will withstand the test of time if the legal status of the source images is unclear?

In this context, and hand-in-hand with the development of Digital humanities, initiatives built on interoperable formats and open image repositories are on the rise. The IIIF protocol (International Image Interoperability Framework) has been developed by the museum and library community to support interoperability between image collections, image viewing software and applications. Institutions using this protocol create extraordinary opportunities to work with reproductions. Digital libraries such as Gallica, museums,³¹ and specific projects such as Equipex Biblissima, a portal of digital resources on the Middle Ages and the Renaissance, or the Fragmentarium project on fragments of mediaeval manuscripts have all been built using this protocol.³² Partners applaud the ease with which images can be opened, used and manipulated, regardless of location. The protocol brings images into the age of digital sharing and ensures that they are useful.³³

In parallel to these activities, art historians must work on their **online identity** through archival platforms (HAL, institutional archives, Academia, ResearchGate), research blogs (personal blogs and research notes), collective platforms (YouTube, Flickr, Wikimedia) and social media (Facebook, Twitter, Instagram).³⁴ These channels are primarily used by PhD students, young researchers, early career curators (note that these uses are little represented in Table 1) in order to promote research, exchange information and help share resources, personal photos (see Table 2) or images sourced elsewhere. This multifaceted sharing, which is inherently visual, is integral to web culture and helps to **democratise art history** by opening “personal laboratories” up to the greater public.

²⁴ For example the digital catalogue of Brueghel’s works: <http://janbrueghel.net>; the digital catalogue of the Getty: <http://www.getty.edu/research/mellini/>; <http://www.getty.edu/publications/terracottas/>. See the recent survey by Antoine Courtin for other Digital art history projects, including those around “machine learning” (consulted 19 September 2018) : <https://medium.com/@seeksanusername/ce-quel-ne-fallait-pas-rater-en-2017-autour-des-projets-en-humanit%C3%A9-num%C3%A9riques-glam-5da5df34217f>

²⁵ *Si la photo est bonne... L’historien de l’art et ses images: la fabrique d’une recherche sur les graffitis et les signatures à l’âge moderne*, 11 April 2018, INHA Paris.

²⁶ See for example C. Guichard, *Inscrire son nom à Rome (XVIe-XIXe siècle)*, Paris 2014; *La signature dans l’espace du tableau*, soon to be published.

²⁷ See the Second Canvas application developed by the Mauritshuis: <https://iconantes.inha.fr/fr/articles/second-canvas-mauritshuis.html> (consulted 11 October 2018).

²⁸ As part of the Digital Montagny project (<https://digitalmontagny.inha.fr/fr/>, 2015) a critical digital publication produced in partnership with the INHA and the Getty Research Center, the importance of working collaboratively on a corpus of high definition images that could be used without restriction was tested.

²⁹ See *Visualizing Venice*: <http://www.dukewired.org/projects/visualizing-venice/>.

³⁰ To illustrate this, see Karolina Badmierowska, *Art-historical thematic research collections: from theory to practice. Case study: Paintings of the interior of the Oude Kerk in Delft* (thesis available in Open Access) <http://www.tara.tcd.ie/handle/2262/85015>.

³¹ Only outside of France for the time being. For a full list of participating museums, see <https://iiif.io/community/groups/museums>.

³² Project presented at the first French meeting on the international IIIF initiative, 15 March 2018 on the Condorcet Campus in Paris. See <https://projet.biblissima.fr/fr/evenements/journee-biblissima-iiifinover-redecouvrir-patrimoine-ecrit-2018>

³³ Denoyelle 2018.

³⁴ See *Être visible sur internet : l’identité numérique du chercheur de l’URFIST de Paris*. See <http://urfist.chartes.psl.eu/ressources/etre-visible-sur-internet-l-identite-numerique-du-chercheur>.





Jacobus Ludovicus Cornet, *De kamer van Cornelis de Witt in de Gevangenpoort te Den Haag* [The cell of Cornelis de Witt in the Gevangenpoort prison in The Hague], 1844, ink and wash on paper, 25,4 x 35,3 cm, Rijksmuseum, Amsterdam. Source: Rijksmuseum. Licence: Public Domain.

Part III

“Down the rabbit hole of images”: a professional community under restraint

“It is a total waste. Despite the unprecedented rise in visual studies across the humanities and social sciences, illustrated publishing is suffering from a marked downturn. The absence, removal or illicit copying of images online reveals a fundamentally ill-adapted situation which does not satisfy the ambitions of editors nor the expectations of the general public.”³⁵

Image-related difficulties are nothing new and have fuelled many a conversation in the wider professional community working with and around art history. But the issue has recently been pushed to the forefront as the digital transformation brings about new opportunities to increase access to remote collections, to share knowledge at source, and to allow information and ideas to circulate freely. The lack of consistency and transparency around costs and the difficulties in applying copyright exceptions lead to an unsettling and stifling situation for art history professionals.

³⁵ Gunther et al. 2007

3.1

An issue effecting all sectors

Methodology

This section is based on the analysis and comparison of data collected during interviews with a representative selection of professionals who use images in their work,³⁶ via an online questionnaire hosted on the project website (iconautes.inha.fr) geared towards the academic community, and through statements collected during sectoral workshops on topics such as academic publishing, art publishing and online databases. Two types of interviews were conducted, one with academics and students, and the other with museum professionals who both produce and use images in their work. The online questionnaire included around 20 questions on profile, image use, preferred sources and methods for procuring images, with space to detail any difficulties encountered along the way, and to make suggestions on how the situation might be improved. 240 completed questionnaires were returned.

Conditions that vary according to status and field

Far from affecting all professionals on an equal footing, questions around image use **highlight existing disparities and create new ones**. Some of the more experienced academics and professionals indicate that they have no difficulty procuring and using images, while many other users, in particular younger scholars, are unanimous in their accounts of crippling difficulties from beginning to end. The absence of an official framework for professional use, and the maverick solutions that arise as a result, undoubtedly penalise those who are working on the outskirts of the sector – as a result of location or inexperience – those, in short, who are most in need of help and encouragement, particularly when budget cuts make institutional support increasingly rare.³⁷

The study revealed that those responsible for managing images in museums and cultural institutions are sensitive to the cultural and academic needs of users when they are in a position to meet these. But gathering illustrations for a project, whether it be personal (thesis, article, book) or collective, means grappling with a host of different terms and conditions in a host of different countries. A comparative study of responses from different museums in the INHA data visualisation project *Répertoire des ventes d'antiques*³⁸ demonstrated the extent to which responses vary, from offers to supply free photographs produced by in-house photographers (French museum) to refusals on the basis that restrictions on downloading and resolution were not compatible with the CC BY 4.0 licence under which the project was being developed (museum abroad). Some institutions agreed to grant permission provided a non-commercial licence was used, and others had to defer to their commercial picture libraries who automatically imposed a fee (French and foreign museum).

³⁶ See the full list of consultations in the Acknowledgements section at the end of this report.

³⁷ Aufderheide & Jaszi came to the same conclusion, in relation to works under copyright, in 2014 (p 51): "The costs of compliance fall disproportionately on those with the least resources, namely, graduate students, junior faculty, and academics at institutions that do not cover permissions costs, along with scholars and independent curators, who only sometimes receive help from editors and institutions in finding out how to obtain permissions".

³⁸ See <https://ventesdantiques.inha.fr/>

The free art and culture journal *Noto*, funded through an innovative business model in which 50% of costs are covered by subscribers and partners, relies heavily on the provision of free images.³⁹ The editors have been advised of a number of ways to avoid paying fees, including museum staff offering to take personal photographs when they are unable to provide official images free of charge.⁴⁰ This could be seen to be a lose/lose situation for the following reasons:

- the authors have images of a poorer quality than those produced by official photography campaigns;
- licencing such images is complex, particularly if the official image is managed by a picture library;
- the photo has no clear rights statement indicating where it was sourced;
- the time spent taking photographs takes away from staff duties;
- the museum continues to project an opaque image policy.

Image requests are still subject to prioritisation which, in some cases, is based on who you know and how important you are rather than formal and clearly defined criteria based on copyright exceptions for research and education.⁴¹ Some scholars miss the days when scientific staff would look closely at requests for reproductions (black and white photographs and slides) and provide these free of charge on condition that the institution's library receive a physical copy of the publication. This system still exists in some museums outside France and for some collections that are still self-managed; it is a great way for museums libraries, with increasingly tight budgets, to build their collections, and also provides a positive outlet for academics, at whatever stage they may be in their career. The cultural and intellectual value of such economies of exchange cannot be compared to the commercial value of picture libraries which often ignore the wider benefits and value that research activities bring to collections.

In addition, **certain research areas are penalised** as a result of their legal status. Working with works that have fallen into the public domain can be less costly – particularly as museums move to make their collections freely available online – and involves fewer risks than working with modern and contemporary art. For professionals working with works protected by copyright, procuring images can prove particularly challenging. Relations with France's main collective rights management

agency, the ADAGP, are described by many as fraught. Academics, along with publishers and museum professionals, report lengthy procedures and systematic mistrust on the part of the agency, even when a good working relationship has been established with the artist and permission has been granted to use images free of charge. Support from artists' estates can vary, some granting permission to use images on the condition that all associated texts be approved prior to publication. This has resulted in the censorship, or "shelving", of certain publications. Furthermore, certain PhD advisors have been known to discourage students from working on certain artists or topics for fear that their estates will hinder their research.⁴²

It is therefore no exaggeration to say that these variables dictate how modern and contemporary art history is written. They also have a negative impact on the visibility of French art internationally. And finally, if **art history still struggles to carve out its rightful place as a core subject within Digital Humanities (Part II)**, this is in large part due to the complexities surrounding image use which plague all digital projects from the outset. Many digital publications – including websites, portals, collaborative platforms and blogs – are available free of charge and are not subject to commercial fees. However, they face the challenge of maintaining permissions that are limited to 2 to 5 years. In research programmes such as those supported by the ANR and the ERC,⁴³ funding is conditioned by the sustainability and openness of deliverables, which means that permission to use images must be granted indefinitely and free of charge. The same conditions apply to academic blogs and online publications.

³⁹ See the journal's website <https://www.noto-revue.fr/>

⁴⁰ Particularly when the museum has an exclusive contract with the RMN-GP. A number of other interviewees have received similar proposals.

⁴¹ This is even the case for curators wishing to use images of works in their institutions' own collections.

⁴² According to a teacher of the history of contemporary art.

⁴³ ERC Workprogramme 2018, p.11.



James Gillray, *Exhibition of a Democratic Transparency - with its Effect upon Patriotic Feelings: Representing, the Secret Committee throwing a Light upon the Dark Sketches of a Revolution found among the Papers of the Jacobin Societies lately apprehended....*, 1799, etching and watercolour, hand-painted. Yale Center for British Art, New Haven. Source: Yale Center for British Art. Licence: Public Domain.

Limited scope for innovation in teaching and training

The internet is now an inherent part of teaching and learning. The recent introduction of the history of arts and cultural studies in French schools paves the way for a digital approach to French collections extended to younger generations. Through a wealth of tools and learning materials, digital technologies support teachers and offer new ways to explore, discover, observe, analyse and question cultural content (see **Part II**). Contributing to and sharing content are an intrinsic part of acquiring and appropriating knowledge. The traditional projection and presentation of images is now supplemented by new opportunities to reuse online content, to build resources and to participate in collaborative workshops at all stages of art history curricula. Multiple tools are now available for putting theory into practice.

Following the lead of institutions such as the École Nationale des Chartes with its digital humanities Master's programme, the École du Louvre has launched a documentation and digital humanities Master's degree which includes **a module on the reuse of digital materials and the development of digital projects**. When tomorrow's art historians graduate, what resources will they be able to use? Learning experiments are currently embryonic and limited to resources that are open for non-commercial use (Gallica and certain museum databases outside France) but research, by definition, relies on exhaustive and qualitative data.

It is important to note that **low resolution images (72 or 96 dpi)** available for download on some sites are of an insufficient quality for teaching. In order to satisfy expectations and **go into sufficient detail**, teachers must use high resolution images; anything less will illustrate a point but leave little scope for dialogue with the works studied. It is therefore regrettable that the sectoral agreements in place with collective rights organisations allow a maximal resolution of 72dpi (a means of ensuring no high resolution images fall into circulation).

The latest agreement was negotiated in 2016 for a period of four years. However the terms of the protocol, conditioned by the payment of a fixed fee by the educational ministries,⁴⁴ are not adapted to current practice. Restricting use to 20 images of no more than 400x400 pixels per class, lecture or conference paper is unrealistic. Furthermore, as the questionnaire revealed, very few teachers are aware of these agreements and the handful that are find them entirely unworkable. This situation leads to widespread abuse which makes the fees paid to the collective rights management agencies all the more arbitrary. The ADAGP recognises that the current arrangement is ill-adapted, but argues that it seeks to strike a balance between accommodating certain uses and the risk that high resolution files circulate.⁴⁵ At the very least, the terms of the agreement should be revised before renewal in 2019, and teachers and students should be better informed of its existence.

This leads to an incongruous situation in which professionals are in breach of the terms that have been negotiated by their supervisory ministries, terms that fail to consider the professional responsibilities set by these same ministries.

⁴⁴ The agreement covers the use of images and clips from films. The total fee paid across sectors is 2 million euros.

⁴⁵ Interview September 2018.

Uncertainty and helplessness among heritage professionals

A great many museum professionals – from curators and collection managers to people working in marketing and interpretation, from ancient through to modern and contemporary art – tell of the difficulties faced when attempting to use images from their own collections in their day-to-day activities. With little support from their institutions,⁴⁶ precious time is spent wading through the ambiguities of the legal and contractual system. This has a negative impact on their own research and can lead to awkward situations with external colleagues, particularly those working outside France, who wish to use images of works in their collections. As the study revealed, museum professionals – and curators and directors in particular – are painfully aware of the missed opportunities to promote their collections; when faced with a quote from the RMN-GP, colleagues do not hesitate to go elsewhere for their illustrations.

Digital research projects undertaken between universities, research bodies and cultural institutions find themselves in a similar predicament. Under the terms of funding agreements, project outputs must be made available under open licences. Project partners, however, are not always in a position to comply with this criteria. The failure to appear in the search results of multi-collection portals does nothing to improve the image of French institutions when compared with their international counterparts.⁴⁷

The effects can prove crippling for those institutions with collections that are predominantly protected by author's rights.⁴⁸ This affects all activities, from collection management and exhibition design through to interpretation, publishing and marketing and is above all a question of budget. According to one museum curator, "staggering" representation fees can have a negative effect on an exhibition concept and force organisers to reign in the number of works on display in order to keep within budget, or, worse still, cancel the show.

The move to bring permissions up to speed with the needs of digital users may have started, but progress is slow and not without hurdles.⁴⁹ Today, heritage institutions are expected to be active on social networks and maintain a blog to keep users up to date on practical information, events and activities. The conditions imposed on this type of communication by collective rights agencies verge on the absurd. One museum professional told of the need to request written permission for each illustrated tweet posted.⁵⁰ Even when agreements are in place, the institution is obliged to list, count and declare each visual used, tying up resources that could be better used elsewhere. The need to evaluate permission requests is legitimate, but the tone and methods used by the ADAGP in some cases appear inappropriate for dealings with state institutions.⁵¹

It could be argued that the Ministry of Culture needs to put the necessary measures in place to ensure that the ADAGP, who are operating on their behalf, adopt a **better suited approach that is more in line with requested usage**.

⁴⁶ The Institut National du Patrimoine for example, gives classes on image rights, but these are still very much orientated towards legal processes and protection.

⁴⁷ See the Europeana Collections portal (<https://www.europeana.eu/portal/fr>), or the portal of the Centre de Recherche du Château de Versailles, the VERSPERA project, which groups different collections with different terms and conditions together (consulted 15 September 2008): <http://www.banqueimages.chateauversailles-recherche.fr/#/query/1b2559d7-231e-4e2d-bab5-189ceb29c943>

⁴⁸ The ADAGP does not allow galleries to waive image rights for museums, which makes it difficult for museums to acquire works.

⁴⁹ See the 2018 ADAGP fee model, where most costs associated with collection databases or digital uses for museums are calculated on the basis of large scale usage (monthly subscription) including image archiving (p. 42-43). See http://www.adagp.fr/sites/default/files/bareme_adagp.pdf

⁵⁰ Interview with the head of communications of a contemporary art museum, September 2017.

⁵¹ According to the director of a contemporary art museum, "our intentions are constantly challenged..." , September 2017.

Difficulties faced by publishers of academic titles and art books

Despite being the current indicator of a scholar's 'performance', academic publishing, particularly in the field of art history, is suffering something of a crisis. In France, the number of art history publications is on the decline while prices are on the rise; only libraries are in a position to buy scholarly titles which prove much too costly for the general public. Faced with the growth of the digital economy and the need to find new business models, academic publishers are forced to find a delicate balance between online and print editions. The question of image rights is particularly thorny for online publications where costs can limit, or even prevent, the publication of certain titles (see "Art history publications with no images").⁵²

Digitising existing journals or periodicals is problematic, not only because of prohibitive reproduction costs and fees associated with purchasing new rights, but because permissions are only granted for a limited period of time, in general two or five years. The German Centre of Art History in Paris estimated that digitising its *Passages* collection, published over a period of 20 years, was going to cost €400,000 in image rights.⁵³ Producing a free edition without images and a paywall version with illustrations was felt to be an unsatisfactory solution. Making state-funded research free and accessible, as it should be, is impossible in such a context.

Publishers who are prepared to manage and pay for image clearance are often faced with a hefty bill. The journal *Perspective*, with two editions a year and a print run of 800, has to settle for predominantly black and white images. As Table 3 shows, despite using open images where possible and publishing a free edition without images, costs are consequential, particularly given the fact that the publisher is making no profit whatsoever.

Table 3 : Image costs for the journal *Perspective*, 2016-2018

	vol. 2016-1	vol. 2016-2	vol. 2017-1	vol. 2017-2	vol. 2018-1
Images used (n°)	155	122	144	124	83
<i>In colour</i>	34	18	22	22	16
<i>Incurring a fee</i>	48	25	35	24	34
TOTAL	€2675	€1084	€1650	€1117	€1378

The absence of French publications on the international market was also flagged by academics and publishers as a significant handicap. Joint publishing and the sale of publishing rights are now standard practice in the book industry and help publishers to distribute and stabilise costs and workloads. Again, French academic publishing struggles to get a foot in on the international market as potential partners from overseas find image fees commanded by French image libraries excessive for such small print runs.

⁵² See Cras & Moreteau 2017, particularly p. 36-40.

⁵³ Interview, June 2017.

Art history publications with no images

A striking example of the impact of reproduction costs on digital publications, often cited by specialists, can be found on Persee.fr, a digital library of open access scholarly journals. In the retrospectively digitised *Revue de l'art*, all photos have been replaced by empty frames marked with a small "no access" logo in the top left corner. This is not an isolated case and some editors, such as those responsible for the journal *Etudes photographiques*, have been forced to relinquish all hopes of an online edition, as flagged in the open letter published in the journal *Re-vues* in 2007 by a collection of specialists.⁵⁴

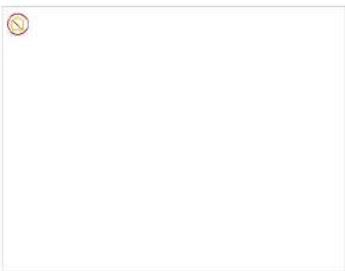
elle se trouve ici devant un fond obscur, d'apparence riche, qui nous permet d'engager vraiment notre lecture de la scène. Il s'agit de l'acte de l'Eternité décrit par Claudien dans le *Flavianique à Stilicon* : passage souvent mentionné par les mythologues et notamment par Cartari⁵. Comme ici, l'Eternité s'y montre en compagnie de l'Alma Mater et d'un « vecchio, che di fianco neve appeso il muso, e l'eterno » (fig. 1). Les quatre *putti* représentés par Zucchi autour de l'Eternité ne sont autres que les quatre Ages : « *Quatuor aevi sunt, sunt diversi / Metalli facti in variis aspectis, / E pare cuachidun di lor teneri / Nel regno suo son suoi compagni eletti / Questo è di ferro, onde sovente feru / I mortali fra lor dannu, e disperati, etc.* »⁶. Au premier plan, un *putto* belliqueux et armé, blanc comme le fer, semble menacer un autre enfant, pacifique et prospère, de couleur dorée. Le carnation des deux autres les rattache clairement aux Ages d'argent (à gauche) et de bronze.

Si le texte de Claudien diffusé par Cartari par terre de source indirecte à l'élaboration du sujet, un autre exemple pouvait suggérer à Zucchi d'autres indications iconographiques. Celui-ci doit être probablement participé, sous la direction de Vafari, à la préparation des chars de la *Genealogie des dieux*, mascarade organisée dans les rues de Florence le 21 février 1586. Attribué à Demogorgon, le premier char représentait le géant de la terre, ce père de tous les dieux, dans l'acte de l'Eternité assis avec l'ennemi par le grand serpent qui l'émoussait⁷ (fig. 6). Demogorgon était alors principalement accompagné de la Nature, de l'Eternité et du Chaos que Baccio Baldoni, l'auteur de la description de la fête, présente comme le prince opposé à celui qu'il exprime Demogorgon, « le dernier apparence » vecchio, pallido, e accerbato da più nebbie scure, e tutto manato »⁸, selon le portrait qu'en fitre Boccaccio dans sa *Genealogie des dieux*.

Le voisinage de Demogorgon avec l'acte de l'Eternité n'en pas un fait nouveau dans la culture artistique florentine, car dans la célèbre frise du portique de la villa médicéenne de Poggio a Caiano, frise réalisée vers 1490 sur les indications du Policien, nous voyons à l'extrême gauche de la composition une figure de vieillard avec un faucon dans les serres dans chaque main et située à proximité de l'acte de l'Eternité, devant lequel se tient la Nature couronnée de petits têtes ailés, les



5. L'Acte de l'Eternité, dans V. Cartari, *Le imagini degli dei...*, Venezia, 1571, p. 38.



6. Anonyme, *Le char de Demogorgon*, Florence, Musée des Offices.

âmes décriés par Claudien⁹. Ce vieillard n'est pas le Chaos, Latocion ou une allégorie de la guerre, comme divers auteurs l'ont récemment imaginé¹⁰, mais bien — comme l'avait déjà observé André Chastel — une invasion plantée sur le thème de Demogorgon, principe originel de toute chose et donc de cette création du temps que développe la frise de Poggio a Caiano¹¹ (fig. 7). Son apparence originale se prête tout à fait à son caractère terrible et choquant et elle dépeint manifestement de l'origine de son nom : les serpents dans ses mains expriment son pouvoir sur la Gorgone¹².

« *Vechio, pallido, e accerbato da più nebbie scure* » : la description de Boccaccio nous ramène plus directement au vieillard de Zucchi, mais si ce dernier est bien Demogorgon, nous devons nous interroger sur l'identité de ce dieu peu commun. Il s'agit, disons-le d'emblée, d'un mythe au second degré, car il n'appartient nullement à la tradition gréco-latine, mais serait né d'une erreur de copie et d'une corruption conaturale du terme *Demogorgon* utilisé par Lactance Placidus dans un commentaire de la *Thebaïde* où il est question du dieu néo-platonicien¹³. Que ce dieu enfanté par un barbare ait paru deuxième aux savants de la Renaissance, nous en avons la preuve avec le silence dont semble le couvrir Conti, alors que Giraldi et Cartari le mentionnent totalement en cause : « *maquam Demogorgon sine, suquam, suquam, apparuit* »¹⁴. Les auteurs de la mascarade de 1586 (Cosme I^{er} aurait participé à son élaboration) n'avaient pas de ces scrupules et l'autorité de Boccaccio fit le reste. Zucchi les mita et alla bien au-delà dans l'exploration du trait médiéval, ce qui nous vaut cette image des plus cocasses, incarnant celle d'une théogonie fantasmatique d'origine byzantine.

« *Demogorgon* — écrit Boccaccio — *accompagnato da ogni parte di serpi, e di nebbie à nu, che massore per le tette della terra appone il quale per tal sono horribile, vecchio d'una testa palliduccia affumicata, e d'una familiarità spoziosa, mandando fuori da se un'odore di terra uccisa, e fetida* »¹⁵. L'imagination du poète supplée à la maigreur des références : Lactance le scolastique, mais surtout Teodenzio, un mythographe du IX^e siècle originaire de Campanie, auquel Carlo Landi a attribué la création du nom de Demogorgon, et dont le texte, connu de Boccaccio mais perdu depuis, devait largement reprendre la vision pour le meim

An article from *Revue de l'art* (1900) on Persee.fr

Art book publishing has also suffered the same fate :

*“Three chapters of this book have been published without their images. The photos exist and are documented, but they are financially censored; the fees claimed are simply incompatible with market prices and the images cannot therefore be included. Removing for financial reasons a work that is central to an understanding of an artist's oeuvre is an unforgivable blow to their memory, particularly when authors, photographers and publishers have put in so much effort and have no hope of covering their costs.”*⁵⁵

The forced removal of images due to excessive reproduction fees, in this case when the photos already exist, penalises art book publishers, the press, scholars and academic publishers and threatens the very existence of quality publications. It is, as the tribune cited at the beginning of this chapter warned eleven years ago “a total waste”.

⁵⁴ Gunther et al. 2007.

⁵⁵ Monelle Hayot, Postface, in Karin Blanc, *Ferronnerie en Europe au XX^e siècle*, 2015, p. 671.

3.2

“Against the flow of history”: professionals speak out

This part of the report presents statements collected from professionals who have to grapple with images on a day-to-day basis. Each new interview and completed questionnaire – whether from within or beyond the institution – challenged the current system of claiming rights and fees on images. The online questionnaire was particularly instructive in demonstrating how many research areas are concerned by this issue (see Table 4).

Table 4: The fields and specialities of professionals who responded to the online questionnaire (in their own words).

History of	Fields and specialities	Age/period
Architecture	Aesthetics	19 th Century
Art	Animals	20 th Century
Artist texts	Anthropology of art	Byzantine era
Cinema	Archaeology	Contemporary era
Collections	Conservation	Iron age
Comics and graphic novels	Digital art	Antiquity (Greek and Etruscan)
Contemporary media, including television	Digital humanities	Late Antiquity
Dance	Digitisation	Middle Ages
Decorative arts	Ethnography	Modern era
Exhibitions	History painting	Neoclassicism
Fashion and costume	Information studies	Neolithic period
Gold and silverware	Interior design	Post Impressionism
Graphic design and typography	Manuscripts	Renaissance
Heritage	Medals	Romanticism
Historical monuments	Objets d'art	Symbolism
Illustration	Psychology	
Justice	Semiotics	
Literature		Regions
Painting		Great Britain
Philosophy		Egypt Africa
Photography		Latin America
Religion		Spain
Restoration		Middle East
Sculpture		Iran-Afghanistan
Techniques		France
Textiles		United States
The art market		Mexico
		Germany
		Canadian Arctic
		China

The findings

A confused and little known legal context:

"The legal landscape is schizophrenic and the situation very uncomfortable." (database manager)

"All I am after is a simple and clear framework" (academic)

"Students more than teachers suffer from a lack of clarity." (student)

Fee policies that are opaque and variable:

"It is rare to find an indication of the fee structure making it impossible to calculate costs." (academic)

"The same reproduction can cost from €12 to €150 depending on the institution." (academic)

"The situation has got worse. A few years ago we were charged €22 an image – we always had to haggle a bit to get it – but now the same illustration costs €56 or €57. And use is now limited to 2 or 5 years (can vary)." (public sector editor of a free academic journal)

Commercial objectives at the root of the problem

While the general regimes governing the distribution of images are broadly dictated by French legislation, picture libraries have different statuses and are free to adopt a policy of their choice. The largest photographic agency, the Réunion des Musées Nationaux-Grand Palais, sells reproductions both of works in the public domain and works protected by author's rights. Most protected works are sold on behalf of the ADAGP, with only a handful of estates managed directly by the RMN-GP (Brassaï, Gisèle Freund).

Commercial partners and heritage professionals alike go to the RMN-GP for their images which, at the very least, incur a reproduction and representation fee. There is no public information available on fee structure and invoices are sent via email on a case by case basis (see Part I). There is no way a scholar or an academic publisher can know in advance how much images will cost in order to make provision for this in the budget, and the educational or academic vocation of the publication can be challenged at any moment.⁵⁶

High prices force students and academics to find alternative solutions such as a sketch, a personal photo or an image available on the Commons or on a foreign collection website.⁵⁷ Image use in subscription journals, however low the print-run, is often classed as commercial. The same holds true for fee-paying conferences or websites that include advertising. Museums are not always able to use images from their collection free of charge; this depends on the terms of the contract in place. Some museums claim to be happy with the arrangement, or have been able to negotiate the terms of their contract to facilitate institutional use. However, many are still forced to pay to use images of their own collections for research or related activities such as collection management, exhibitions and interpretation.

⁵⁶ Examples: an academic art history journal, funded by the French national research council (CNRS), with a print run of 800 copies and an online version with no images, saw fees rise from a preferential rate of €22 + VAT per image to €54 + VAT per image (2017). Another academic and educational journal reported that prices rose from €22 + VAT per image to €56 or €57 + VAT per image depending on the request, with a limitation of 2 to 5 years which also varied from image to image.

⁵⁷ Examples: French collection images for a thesis cost €57 per image (2015); €70 per image for international conference proceedings (2018).

Procurement processes that are complex, costly, labour-intensive and opaque, and vary from project to project and from client to client:

"The time and cost spent clearing image rights compromise the quality of the publication." (academic publisher)

"The process is too complex and slow; it is ill-adapted to the tight timeframes imposed by teaching and publishing schedules." (teacher)

The absence of legal, financial and administrative support in sourcing images on the part of universities and institutions, particularly for younger academics:

"I spend hours trying to decipher rights and reproduction contracts and compiling supplier profiles so that museums can invoice my institution." (academic)

"Managing images and associated rights weighs heavily on research, particularly for younger scholars who have limited resources and rarely benefit from the support of an institution." (academic)

For images protected by author's rights, the current sectoral agreements do not reflect the reality of teaching today:

"Limiting the size of works to 400 x 400 px is ill-adapted and ridiculous: it is impossible to see anything on a pixelated image. Nobody sticks to this of course. Limiting the number of works to 20 is equally absurd. Research, particularly in the context of a thesis, can involve hundreds of images, especially when studying historic exhibitions, collections, a long period of time or a large number of artists." (teacher)

Academics working far from their objects of study are forced to pay for images as they are unable to see the works in person:

"Some scholars are photographers and can come to the museum to take their own photos, while other must request images and cover the high fees that these command. This discrimination is unacceptable." (museum director)

The responsibility and costs associated with reproductions have for the most part passed from the editor to the author:

"I recently wrote a chapter for a book and spent as much time clearing image rights as writing the article (which was far from straightforward). This is because publishers no longer take care of this." (academic)

"My publisher is asking me to pay €1500 to include a book of illustrations and cover the associated rights. My research institution will cover no more than €500 for the entire project and I spent two months trying – and failing – to find additional funding." (academic)

Collective rights agencies do not distinguish between scholarly activities and commercial activities, resulting in some tension with academics:

"For the purposes of information or education." An academic publication is for precisely those purposes but is automatically considered to be commercial, which to me seems contradictory." (academic)

"When an image costs four times the price of the journal, there's a problem." (editor of a print art journal)

Commercial use vs non-commercial use

The notion of “commercial use” is not clearly defined. “There is no legal definition” according to Joëlle Farchy and Valérie-Laure Benabou.⁵⁸ For picture libraries and collective rights agencies, a “professional use”, whether it be profit-making or not, tends to be classed as commercial. The distinction, for example, between an academic or educational subscription journal and a commercial magazine rarely exists. Damien Petermann, currently completing a PhD in geography and a member of the SavoirsCom1 collective, sums up the uncomfortable situation that scholars find themselves in and the ways they are forced to get round this:

“Researchers find themselves in a sticky predicament. On the one hand, publishers are asking that authors provide royalty-free images while the institutions continue to charge a fee for each HD file requested. This fee is rarely covered by research bodies, so when the institution refuses to provide an image free of charge, the scholar has to foot the bill. As a result, more often than not authors opt to remove the image and replace it either with a sketch or diagram, or nothing at all.”⁵⁹

⁵⁸ Benabou & Farchy 2007. p.35.

⁵⁹ Petermann 2018.

And the consequences?

These practical obstacles do not only reduce productivity, they undermine the very foundations of art historical and cultural practice. Here professionals evoke some of the most striking repercussions.

The discipline is constrained and “censored”. Its epistemological freedom is threatened (82% of academics who responded to the questionnaire have been forced to alter their work because they were unable to illustrate their statements):

“I tend to use images less and less in my work to avoid having to pay the fees.” (academic)

“When writing articles, I start by deciding which images I can do without in order to keep the numbers down.” (academic)

“I still have some articles that have not been published due to problems with images.” (academic)

“I have been known to select illustrations according to how much they cost.” (academic)

“It can be a waste of time to make a point without an illustration. I always develop arguments according to the illustrations that I have.” (academic)

“Publishers want freely available images! It is impossible to choose which illustrations to use on the basis of such criteria.” (academic)

Some museums are forced to use unorthodox methods to use images of their own collections:

“How many museums make their staff pay to use images of their collections in their work (around €27 TTC per image when held by the RMN).” (museum curator)

“We found better quality photos taken by members of the public on the web, so we contacted the authors to ask permission to use them.” (museum curator)

The situation pushes professionals to adopt underhand tactics and solutions:⁶⁰

“It is time to stop the reign of terror around image rights.” (academic)

“I am after plentiful and carefully catalogued images that are of a better quality than my own photos or, worse still, those that I pilfer on internet like my students, with the reproachful art of screen grabbing.” (teacher)

“Often students don’t have access to the physical work of art and have to settle for a poor quality reproduction that tends to be cropped and of a different colour and proportion to the original.” (teacher)

“Users have developed websites and scripts that make it possible to recompose a high res image from its constituent parts. These are little known, but used by some users and academics to get hold of images of a sufficient resolution.” (academic)

“Academics are not equal when it comes to obtaining images. There are those who know the museum and its staff well and who, in most cases, will be able to easily get hold of a free HD image [for personal use]. Then there are those who are unknown to the museum and therefore unable to benefit from such an arrangement.” (academic)

“There are tacit arrangements that sometimes make it possible to lower the fees.” (museum curator)

⁶⁰ These practices are all listed in Aufderheide & Jaszi 2014, see p. 42-43 in particular.

For academic publishers, making some journals available online is simply not possible for financial reasons (due in large part to the fact that licences expire after a certain time period):

"Preparing a journal for online publication is very complex from a practical and financial point of view. The pricing policies are completely opaque and the publisher has to get a quote for each individual image and each individual institution." (editor of an online academic journal available free of charge)

"There is no way we can contemplate an online version because of the costs involved with clearing image rights. The future of our publishing house is very fragile because of this situation." (editor of an academic journal)

While collections are increasingly available online, there is little opportunity to use and create relationships between them in a digital environment:

"While collections are increasingly available online, there is little opportunity to use and create relationships between them in a digital environment." (database manager)

Teachers and schools are not in a position to fully benefit from the educational developments and innovations that are widely adopted in other countries:

"The sectoral agreements are very restrictive, yet I encourage my students to reuse class material to contribute to collaborative projects such as Wikipedia and WikiCommons and to engage with the material produced by public projects." (teacher)

Museums lack autonomy in the management of their core missions (temporary exhibitions, research, conferences, events, etc.), and the development of their brand and all related income:

"The cost of clearing image rights is often so staggering that it can have a significant impact on the show and in particular how many works are included. Exhibition lists are often reduced to keep within budget, in turn affecting the scope of the show." (museum curator)

"There are some shocking examples of this logic. We faced difficulties, for example, using images of our own collection on exhibition cartels in a show organised in partnership with other museums! The museum had to grant permission. What a farce having to give permission for a purely scientific use by colleagues!" (museum curator)

"There is absolutely no protection on how images are used commercially [...]. A company who reproduced works from our collection on luxury products only informed us that it had purchased the rights when it wanted to organise a product launch at our museum." (museum director)

Limited visibility for French research, academics, collections and artists:

"Cultural democratisation will never happen if the people charged with promoting and sharing culture face obstacles that can threaten their very existence." (press editor)

"Academia is the first victim of this situation, followed by the visibility and value of French collections abroad." (museum director)



Email just in demanding 130 euros for the copyright of one image (which is already photographed) by a French museum for inclusion in an academic journal article with a low print run of only 400 copies!?! Madness.
[#phd](#) [#ecr](#) [#imagecopyright](#)

 Traduire le Tweet

05:48 - 22 août 2018

3 Retweets 7 J'aime



Tweet from an American PhD student, August 2018.

3.3

A counterproductive system?

A museum sector held back from the digital revolution

The crippling situation described by professionals also has an immediate impact on digital transformation in the French museum sector. The professionals questioned as part of this study highlighted a certain number of organisational and deontological issues that need to be tackled before museums are in a position to put an effective digital policy in place that meets the needs of both the institution and its public:

- A lack of independence in managing image permissions and rights;
- A lack of familiarity with digital visitors and the way digital content can be used, particularly with the emergence of digital humanities;
- A professional culture that continues to believe that making high quality images available will stop people from attending the museum, when in fact these two ways of “visiting” a collection are increasingly seen to be complementary and mutually beneficial;
- A fear among curators that their scientific control over a collection will be challenged or undermined;
- A lack of awareness among managers on the options available with regards to opening up collections;
- Little understanding of the value of developing and recognising digital skills in-house and putting the necessary resource behind building and maintaining online collections;
- A reluctance to engage in new digital business models based on the availability of both free and paid content.

A missed opportunity for French cultural diplomacy

The development of digital technologies and services opens up fantastic opportunities for French cultural diplomacy.⁶¹ However, given the current state of affairs and in the **absence of a national strategy**, the museum and research sectors find themselves in a delicate position with regards to their role as public services:

- The fact that there is no online cultural infrastructure goes against the French government’s stance on providing open access to public service data;
- The current situation is also incompatible with the very public push for “cultural democracy”; museums are not yet in a position to seize the opportunity to reach out to new audiences through digital inclusion.
- Image policies are failing to satisfy user expectations, particularly (but not exclusively) those of professionals working in the culture and heritage sectors.

France’s role in the European cultural and scientific arena is also undermined:

- Conditions are incompatible with European Union requirements which stipulate that all European-funded projects must make their deliverables available through open access.

The same is true for France’s role on the international stage:

- French collections and associated knowledge are little represented on the web which is currently dominated by North European, British and American collections;
- French academics and research institutions are unable to participate in digital projects both in France (including those funded by the Agence nationale de la recherche) and beyond (European Research Council-funded portals, multi-collection catalogues, etc.).

⁶¹ Lescure 2013.



Wilhelm Hammershøi, *Interior with the Artist's Easel*, 1910. Oil on canvas. Statens Museum for Kunst, Copenhagen. Source: Statens Museum for Kunst. Licence: Public Domain.

British, American and North European collections in the limelight

The academics and teachers questioned as part of this study confirmed that they increasingly source their images abroad, with 54% turning to open collections. The British Museum, the Metropolitan Museum of Art and the Rijksmuseum were cited as the most popular collections.

"For the moment I turn to British and American museums as it is impossible to get hold of public domain images [in France] to illustrate my articles, blogs and lectures." (teacher)

"When you can choose between a painting in the Louvre (that is managed by the RMN and comes at a cost) and a free image of a painting from the Met, you are inclined to choose the latter for your study." (academic)

"Prints in the Rijksmuseum or the British Museum have no rights attached to them and can be instantly downloaded, when the same images from the BnF are overpriced and take forever to get hold of. It's a no-brainer!" (academic)

Requirements frequently expressed by arts professionals

(source: Images/Usages questionnaire)

Access

- Open access to images of works in the public domain;
 - For works protected by author's rights, a full educational exception that supports teaching, research and related non-profit activities;
- The possibility to photograph public domain works in museums and other exhibition spaces and use these in one's work.

Image quality and technical support

- Images of a sufficient quality and resolution with quality metadata;
- Databases that are collective, participative and open;
 - Effective tools that allow images to be sorted, manipulated and projected.

Professional support and guidance

- More straightforward procurement processes;
- A code of best practice;
- Clear and simple guidelines on how images can be used;
 - Encouragement.

Building a shared cultural heritage

There can be little doubt that the French system of taxing the use of art images is detrimental not only to art professionals – whose primary vocation is to build, enhance and enrich French culture – but also to French heritage itself; it runs the risk of seeing its social, cultural and scientific value diminish over time. Most of the professional activities considered as part of this study fall under the public sector, and as M.A. Trojette flagged in his 2013 report to the French prime minister, “costs associated with producing and collecting public information must be fully borne by the state's budget as they are permanent public sector expenses”. He writes, “Asking users to cover a proportion of these costs undermines the robustness of public services”.⁶²

The experiences and needs voiced by the professional community echo the conclusions of several public reports, including that produced by the French Ministry of Culture's working group on digital cultural heritage in 2010, those of Pierre Lescure and Camille Domange in 2013, or indeed that of Joëlle Farchy and Marie de La Taille in 2018.⁶³ All warn of the risks of a protective strategy and point to the advantages of a “digital culture ecosystem”. In this age of increasing collective awareness, we are witnessing a real challenge to the current system. The response among academics, publishers, curators, data analysts, librarians, economists and legal professionals is unanimous: change is inevitable.

⁶² Trojette 2013, p.6.

⁶³ See *Partager notre Patrimoine culturel. Propositions pour une charte de la diffusion et de la réutilisation des données publiques culturelles numériques*. Conclusions du Groupe de travail sur le patrimoine culturel numérique remises à Madame la Ministre de la culture et de la communication, 2010; Lescure 2013; Domange 2013; Farchy & De La Taille 2018.



Félix Vallotton, *Intérieur avec femme en rouge de dos* [interior with woman in red seen from behind], 1903, oil on canvas, 93 x 71 cm, Kunsthau de Zurich.
Source: Wikipedia. Licence: Public Domain.

Part IV

A changing landscape: the international growth of open content

With a growing number of collections now available online and a digital agenda that is well and truly underway in Europe and in France, the question of access to images is being pushed to the forefront. The opportunities brought about by open content and new freedom of information legislation have laid the foundations for a shift in approach, but they can only go so far in resolving the issues detailed in the previous section. In these changing times, what initiatives have emerged in France and how are public services striving to meet the evolving needs of their users?

4.1

Governmental measures for open data in the cultural sector in France

Freedom to access administrative documents: towards an open data policy by default

With the digital transformation and the push to modernise public services, the notion of free access to public data, for which provision has been made in French law since 1978⁶⁴, has become a core consideration over the past decade.

The European 2013/37/UE directive (known as the “PSI” directive) states that all member states must make their administrative documents available for public or private use, whether this be for commercial or non-commercial purposes. Transposed into French legislation through the “loi Valter” (loi n° 2015-1779 of 28 December 2015), the PSI directive reinforces France’s historic efforts in the domain⁶⁵ and supports its move towards a fully open policy on public data. The overarching benefits of such a strategy, as identified by the government, are as follows:

- A greater transparency for public institutions, elected officials and the work undertaken by civil servants;
- The creation of an effective digital public service that meets the needs of its users;
- An environment that encourages economic and social innovation with the emergence of new and effective public services using public data.

In 2016 the Digital Republic law (*loi pour une République numérique*, also known as the Lemaire law) made it possible to crawl data held in public databases, including those produced by cultural institutions. In the same year the European Commission’s Horizon 2020 programme made free access an obligation for all research projects funded through an EU grant. Failure to respect these obligations results in financial sanctions. With the support of these legislative and normative measures, the scene is set for the emergence of a new social paradigm.

⁶⁴ *Loi n° 78-753 du 17 juillet 1978 portant diverses mesures d’amélioration des relations entre l’administration et le public et diverses dispositions d’ordre administratif, social et fiscal.*

⁶⁵ In its study *The Open Data Economy, Unlocking Value by Opening Government and Public Data* (2013), Capgemini Consulting included France in the group of “trend setters”, recognising that open policies were introduced late but with gusto.

Libraries, Museums and Archives exonerated from governmental policy

Despite the French Ministry of Culture's public support of the government's open data policy⁶⁶ and the airing of 'concerns that public services would fail to meet the expectations of users'⁶⁷ if they were to continue to charge fees, flagged in several public reports, a decree was passed in 2016 which enabled libraries, museums and archives, along with a handful of other public services, to maintain charges for the use of content resulting from digitisation programmes.⁶⁸

This decree makes it possible – but not mandatory – for institutions to offset permanent digitisation costs on users, even though digitisation is a necessary part of their public service mission.⁶⁹ This legal safety net, along with the increasing pressure to generate income, means that there are few cultural institutions in France who are in a position to fully participate in the digital era. As the international OpenGLAM⁷⁰ movement gains traction elsewhere, France finds itself lagging behind.



⁶⁶ See the French Ministry of Culture's Open data roadmap, April 2013 (consulted 17 July 2018) : <http://www.culture.gouv.fr/Thematiques/Innovation-numerique/Donnees-publiques/Feuille-de-route-open-data>

⁶⁷ Trojette 2013.

⁶⁸ *Décret n° 2016-1036 du 28 juillet 2016 relatif au principe et aux modalités de fixation des redevances de réutilisation des informations du secteur public.*

⁶⁹ According to the terms of the law, pricing structure and terms and conditions of use should be fixed and made available to the public.

⁷⁰ Open Galleries, Libraries, Archives and Museums.

Bartholomeus van Bassen, *De Ridderzaal op het Binnenhof tijdens de Grote Vergadering van 1651* [The Great hall of the Binnenhof in The Hague during the Great assembly of 1651], c.1651, oil on panel and metal, 52 x 66 cm, Rijksmuseum, Amsterdam. On loan from the Koninklijk Kabinet van Schilderijen Mauritshuis. Source: Rijksmuseum. Licence: Public Domain.

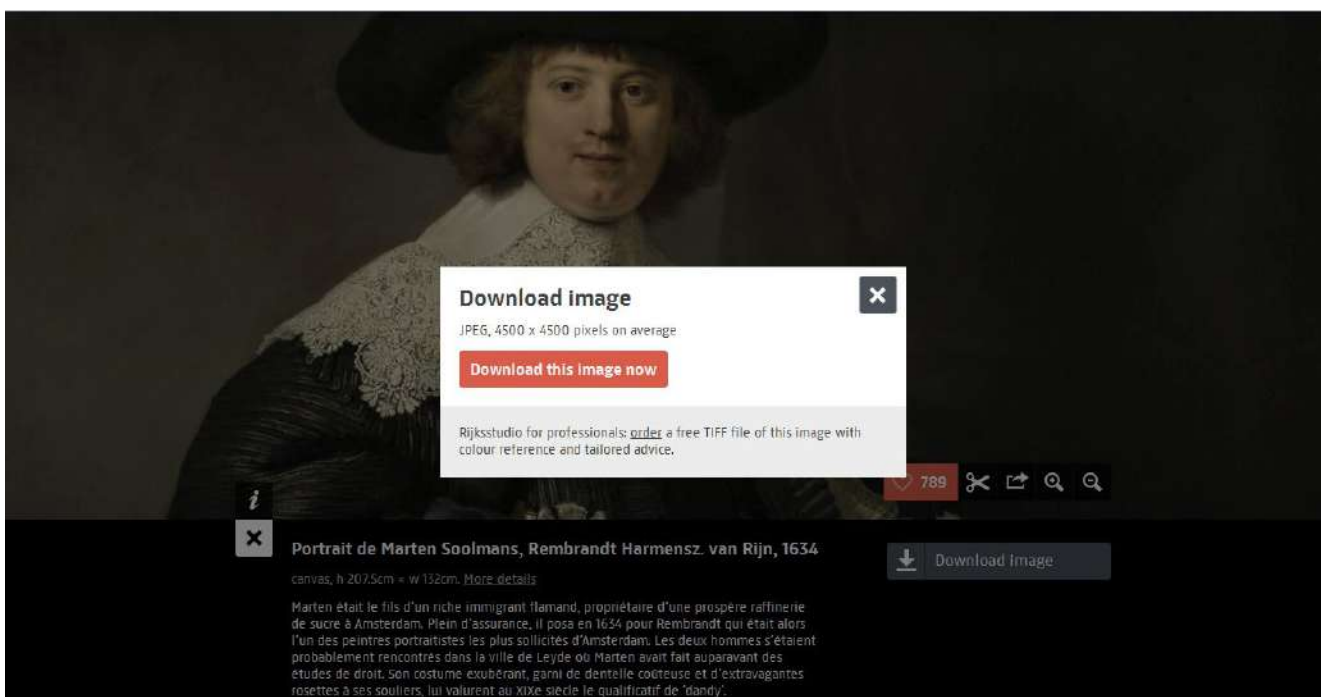
What does “Open” mean in a cultural context?

As Camille Domange explains in his report *Ouverture et partage des données publiques culturelles* (2013) ‘the problem of opening up cultural content (open content) must be dissociated from the move to open up and share cultural public data, even though they are complementary’.⁷¹ How does one distinguish between these notions in the context of this study?

- **Open Content** is the online provision of free digital reproductions of works under a licence that guarantees that they can be accessed and used by all, without technical, legal or financial restrictions.
- **Open Data**, closely linked, is the online provision of free data, such as the metadata that describes an image.
- **Open Access** is the online provision of digital content, either through an open licence (Creative commons, etc.), or through an intellectual property licence. Open Access is primarily used for articles in academic journals.
- **Open Knowledge** is a social movement that promotes the freedom to distribute and modify creative works under open licences. The movement applies open source philosophy to culture and knowledge.

What is the relationship between open content and work made available through Creative Commons licences?

Works placed under Creative Commons licences are not necessarily free from rights or fees. The rights owner determines the conditions for using and sharing the work (see table on Creative Commons licences). Only content made available through CC0 or Public Domain licences can be considered to be “open culture”.



4.2

The growth of open content

A brief history of the OpenGLAM movement

*“Within the realms of networked possibilities available to us today, it becomes increasingly important for archives, museums and libraries to address the question of how they connect with their digital visitors, and how and in what shape they want to make their digital collections accessible”.*⁷²

In a move to embrace and engage in the digital age, a growing number of museums and cultural institutions are revising their core missions and policies, including those related to images. Encouraging images to circulate on the internet, whether it be on platforms such as Wikipedia or Flickr, or via blogs and social networks, and recognising the epistemological value of these new environments, emulates the movement for a free and open internet, open source solutions and open knowledge that started in the 1990s.

In France, early initiatives from the OpenGLAM movement⁷³ were widely disseminated by French collectives and non-profit organisations who actively support the public domain and open licences and believe that content collected or produced by cultural institutions should be made as widely available as possible. Advocacy groups included Wikimedia France, the Quadrature du net and SavoirsCom1.

In 2012, following a ten year refurbishment and a few months before reopening, the Rijksmuseum in Amsterdam launched the Rijkstudio. 125,000 high resolution images from the Rijksmuseum collection were made available online for free download without restrictions on use and with a number of functionalities supported through commercial partnerships. This initiative, which today includes 640,000 images, was widely reported in the media and is still widely used as an OpenGLAM benchmark.

In 2013 the Getty Museum made 4600 reproductions of works in its collections available as open content. Today 115,000 high definition images are available for free download with no restrictions on use.

A year later in 2014 New York’s Metropolitan Museum followed in their footsteps, making 40,000 images available for free download for non-commercial use as part of the Open Access for Scholarly Content (OASC) initiative. In 2017, 375,000 public domain images were made available for free and unlimited download under a CC0 licence, and the museum began collaborating with Wikimedia Commons with the recruitment of a “Resident Wikimedien”. Opening up these images immediately led them to be widely used in collaborative projects such as Wikipedia.⁷⁴

⁷² Introduction to the « Coding Da Vinci » project, a German hackathon around open cultural content, launched in 2014 by the Deutsche Digitale Bibliothek (DDB), the Open Knowledge Foundation Germany e.V. (OKF DE), Research and Competence Center for Digitalisation. Berlin (digiS) and Wikimedia Deutschland e.V. (WMDE). See : <https://codingdavinci.de/about/>.

⁷³ This initiative is now supported by the Open Knowledge Foundation, different international institutions and the European Commission.

⁷⁴ The collections of the Metropolitan Museum are seen 10 million times per month on Wikimedia and 2 million times per month on the Met website (Tallon 2018).

Museum collections images on Wikimedia

Following the lead of the Metropolitan Museum of Art, a growing number of institutions are opting to upload images from their open licence collections to collaborative platforms such as Flickr or, even more popular, Wikimedia. What are the reasons behind this? According to the Met blog, the hope is that quality images and related data will support research, innovation and creativity.⁷⁵ The increase in visibility, the availability of different language versions, and the increased traffic clicking through to their own site are also key benefits for the Met.⁷⁶

Other motivations for contributing to Wikipedia include:

- Making a collection available when a museum is closed to the public for renovation;
- Making a collection available when there is no museum collection website;
- Increasing the visibility of works by including them in Wikipedia articles;
- Improving semantic and multilingual referencing (through Wikidata)

As part of its cataloguing and digitalisation project, the departmental museums of the Haute-Saône region in France signed a convention with Wikimedia France.⁷⁷ 2500 image were added to Wikimedia and used to illustrate articles which provided entry points onto the collections. The metadata was translated into English and categories created to facilitate searching.

With its rich semantics, Wikidata provides museum collections with unprecedented opportunities for academic attention. The search engine *Crotos* (<https://zone47.com>), which is underpinned by Wikidata, currently gives access to around 134,000 illustrated and well-documented objects. Certain collections, such as those of the Musée du Louvre, are included not through the initiative of the institution, but through the voluntary investment of members the Wikimedia community. The institution, however, would be the first to gain from an active engagement in the provision of quality images and metadata.

In just three years, and with other important North American collections such as the Walters Museum (2011) and the Los Angeles County Museum of Art (2013) carrying the flame, the OpenGLAM movement had gained some momentum. Between 2015 and 2017 the National Palace Museum of Taiwan opened up 70,000 images and datasets following a large scale digitisation project. A number of libraries and archives were also early adopters, in particular the British Library which contributed images to Flickr as early as 2007, reaching over a million in 2016.

By 2016, over 50 institutions had joined the movement. By mid-2018 this figure had risen to 324, 140 of which were museums. A proliferation of case studies, articles from museum professionals who have made the move to open content, and national efforts in this field have given impetus to the movement. Those countries leading by example, in order of number of institutions with open policies, include Sweden, Norway, the Netherlands and the United States. In Europe, there is greater visibility for those institutions that participate in the Europeana Collections platform which gives access to over 58 million items, with particular focus on those images that are available as open content.⁷⁸

⁷⁵ Maher & Tallon 2018.

⁷⁶ At the event "La Stratégie numérique dans les musées" held on 5 October 2018 at the INHA, the director of the natural history museum in Toulouse reported that his museum collections had also seen a substantial rise in visitors since it had been presented on Wikipedia.

⁷⁷ Poulain 2016.

⁷⁸ There is a "Can I Use it?" filter and a "Browse all Open Access Images" link on the homepage. See <https://www.europeana.eu/portal/> (visited 22 August 2018).

A movement founded on shared values

As stated in the 2017 ReACH declaration, coordinated by the V&A and signed by a number of countries including France, 'For cultural institutions that hold collections for the benefit of the public, the opportunity to provide open access now or in the future to Works in a digital format is an exciting new frontier in their mission to preserve and transmit knowledge, culture and history for present and future generations.⁷⁹ Museums and cultural institutions who adhere to OpenGLAM principles cite fundamental values and the promotion of collections and related knowledge as core motivations for transitioning to open content. Opening up digital images is in perfect correlation with the historic values of the museum and, further still, provides a new way to fulfil their mission and to engage in their era. These fundamental values include:

- Access and free and universal use for works in the public domain
- Transparency (open and accessible information and clear indications on the status of works and their reproductions)
- The need to support research, teaching and creative uses
- Public engagement
- Promotion (build, strengthen and diversify audiences and create new and inclusive ways of sharing collections).⁸⁰

Public Domain Photos

This photo is in the [Public Domain](#) and free of any copyright restrictions.

Feel free to:

- Share the images – i.e. to copy, distribute, and transmit them.
- Use the images in any context – e.g. teaching, research, lectures, publications, film productions, etc. This includes commercial purposes.

Give credit where credit is due - proper conduct when using Public Domain images

In order to allow others to see where the original works can be found, and where they can download the images themselves, we ask you to include a reference to Thorvaldsens Museum.

We recommend that you state the source of the image as follows:

Artist, title of the work, date (year), Thorvaldsens Museum, www.thorvaldsensmuseum.dk

Example: If you use an image of the artwork *Night* by Bertel Thorvaldsen, please state the source:

Bertel Thorvaldsen, *Night*, 1815, Thorvaldsens Museum, www.thorvaldsensmuseum.dk

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Thorvalsen Museum, Copenhagen. Best practice for Public Domain images
(<https://www.thorvaldsenmuseum.dk/en/contact/use-of-photos/public-domain>)

⁷⁹ See notes from the workshop on <https://iconautes.inha.fr/fr/index/convention-reach.html> (visited 22 August 2018).

⁸⁰ See Part 4.4 for details on benefits and advantages.

The Yale Center for British Art introduces a new and innovative policy in 2015

“The Yale Center for British Art is ahead of many museums when it comes to access to metadata and images of works in their collections. The YCBA encourages free and open use of its metadata without restriction. With regards to its images, even though the YCBA has not chosen a specific licence (as a result of the many changes in licencing of late), my museum has adopted a full Open Access policy in line with the University of Yale guidelines. The Yale Center for British Art does not restrict access to public domain works. In fact, the YCBA allows users to reuse high resolution images for the purposes of research or commercial use, which is a very innovative approach in the cultural sector where one usually has to pay to access images. The museum also provides thumbnails for works that are not in the public domain”

Emmanuelle Delmas-Glass, Yale Center for British Art⁸¹

⁸¹ Emmanuelle Delmas-Glass, interview, 2015: <http://www.club-innovation-culture.fr/emmanuelle-delmas-glass-yale-center-for-british-art-si-les-musees-ne-choisissent-pas-lopen-content-ils-deviendront-invisibles-et-inutiles/>. See also: *Regards d'ailleurs : l'expérience Open Content du Yale Center for British Art*, <https://www.youtube.com/watch?v=CkINKwY2fv4>.

Supporting museum strategy through open content

The protagonists of OpenGLAM may share the same belief in open content, but there is no one size fits all policy and institutions have adopted a variety of approaches. The Rijksmuseum, whose model is much-quoted among professionals, makes high res images of its works available free of charge as part of a new business model. From marketing and user identification,⁸² through to a prestigious award for creative reuse and opportunities to customise consumer items with works from the collection, the image policy is the crux of the museum's business model.

The licences used by institutions moving towards open content differ and reflect variable approaches to the concept,⁸³ but the most common are Public Domain, CC0, Open Licence.⁸⁴ Some museums do not use a specific licence but outline their policy in their general terms and conditions.

Once the licence or terms and conditions have been established, it is vital to ensure users find images and their associated metadata. The ability to provide an intuitive search facility complete with filters, image thumbnails, download links and clear rights statements for each image,⁸⁵ along with added functionalities including visualisation tools (such as Mirador for Getty Museum images) and personal galleries will impact user experience both for academics and the general public.

In addition to building a user-friendly interface, it is important to ensure that metadata is structured and presented in a useful way in order to support certain user groups. Good examples include the databases of the Metropolitan Museum of Art (including detailed bibliography, provenance and museum publications) and the British Museum (controlled vocabularies, RDF standards).

The British Museum's policy provides another example of a tailor made image policy. With images placed under a CC BY-NC-SA 4.0 licence, the British Museum has not gone fully open and continues to charge for commercial use.⁸⁶ Image resolution (72 dpi) is also insufficient for publication, but high resolution images can be requested by email for non-commercial use, including research. This model, based on a distinction between educational use and commercial use, is used by most of the British museums (National Gallery, Tate Gallery, Victoria and Albert Museum, etc.).⁸⁷ The Wellcome Collection and the Natural History Museum have adopted open access policies, and have very recently been joined by Birmingham Museums Trust who have moved their collections images from a CC BY-NC licence to a fully open CC0 licence.⁸⁸ Images can be downloaded free of charge with a maximum resolution of 300 DPI and 3MB which, according to Digital Development Manager Linda Spurdle, is ample for most academic uses and allows for wide diffusion. Larger images are available at a charge.⁸⁹

The list of museums that have opened their collections over the past few years is as diverse as the strategies behind this movement, from national museums in Sweden, Denmark, Slovenia and Croatia, to museums of archaeology, ethnology, science, design and natural history. Iconic masterpieces can be found alongside unknown local or regional collections. It is difficult to evaluate the long-term impact on art history, particularly as some of the key collections are still missing from this open corpus, but the effects can already be felt in the world of academia and the visual arts.⁹⁰

⁸² In order to download images, users must create an account and sign in. Users are kept informed of updates and special offers via email.

⁸³ Photographers may have rights on some images, users may be required to share alike, or to use images solely in a non-commercial capacity. See Douglas McCarthy and Andrea Wallace's *spreadsheet Survey of GLAM Open Access policies 2.0*: https://docs.google.com/spreadsheets/d/1WPS-KJptUJo8Sxtg00llcxq0IKJu8eO6Ege_GrLaNc/edit#gid=1216556120.

⁸⁴ See Annex for a full list of Creative Commons licences.

⁸⁵ For a general study on rights statements for images on museum collection websites, see the DAYOR project (Display at your own Risk) by Andrea Wallace and Ronan Deazley. See <https://displayatyourownrisk.org/about-dayor/>.

⁸⁶ See also the Pinacoteca Brera of Milan which has made high resolution images of its collections available for download for a selection of non-commercial uses (including in press and television). See <https://pinacotecabrera.org/richiasta-immagini/>.

⁸⁷ Each museum has its own definition. See for example, the conditions of the Victoria and Albert Museum, that fix a relatively high print-run before academic publications are considered commercial: 4,000 hard copies and use of content for 5 years for e-publications (online journals, non-commercial websites and blogs).

⁸⁸ 9 museums, 800 000 works. See <http://www.birminghammuseums.org.uk/collection>.

⁸⁹ McCarthy & Spurdle 2018.

⁹⁰ See parts II and V.



Eric Lee-Johnson, *Gate to the farm, Spring scene in Waimamaku*, 1955, black and white photograph, Museum of New Zealand Te Papa Tongarewa Museum, Wellington. Source: Museum of New Zealand Te Papa Tongarewa Museum. Licence: CC-NC-ND 4.0.

4.3

Open content in France: initiatives and experiments

Archives and libraries

Despite being granted permission to charge fees for digitised content through the 2016 decree, French libraries and archives have been espousing open content for some years.

The last five years have seen significant progress in the archive sector, even though some types of data continue to provoke complex legal conflicts between public and private interests.⁹¹

The National Archive's move to replace their old pricing system in 2017 with a fully open data policy was a welcome, and symbolic, step. In the years leading up to this, several municipal and departmental archival services had paved the way: the municipal archives of Toulouse, for example, opened their data in 2013 and the Hérault departmental archives opened their collections in 2016 through a partnership with Wikimedia.

In 2012 the University Library of Strasbourg, through its online library Numistral, was the first social sciences library to adopt an open licence for its images. While it offers many pioneering services, including its Gallica digital library launched in 1997, the Bibliothèque Nationale de France (BnF), continues to use a mixed model with free images for non-commercial use, and paid images for commercial use.

In 2017, the library of the Institut National d'Histoire de l'Art opted to make its collections, including 650,000 digital images, available through the open Etalab licence.⁹² This has given visibility to the library's important collections and is a major step in the field of art history.⁹³

Museums

It is very clear that France has fallen behind when it comes to making its cultural heritage available through open content.⁹⁴ It is not altogether absent from the list of countries that have begun experimenting with open content, but its lack of engagement in the movement is all the more surprising given the wealth of its heritage, its pioneering role in digitising and building vast collection databases (Joconde, Mérimée, Palissy),⁹⁵ the dynamics and quality of its onsite interpretation activities, and the fact that it is struggling to find ways to engage with audiences in a digital environment.

It is worth noting that some of the major French museums have not yet put their full collection databases, complete with quality images and detailed metadata, online, settling instead for a selection of key works.

⁹¹ Maurel 2016. See <https://scinfolex.com/2016/12/13/une-enorme-faill-e-dans-la-loi-valter-sur-les-donnees-culturelles/>.

⁹² The French Prime Minister's task force for Public Data created the ETALAB licence.

⁹³ The images are free with no restriction on use providing the source is mentioned. Higher resolution images are available under the same conditions but must be ordered. If new photography is required, a small service fee is charged (from €5). <http://bibliotheque-numerique.inha.fr/conditions-utilisation>. Note that the collections of the Ecole Nationale Supérieure des Beaux-Arts are not open; they are distributed by the INHA but managed by the RMN-GP. See <https://scinfolex.com/2017/04/13/open-data-culturel-est-possible-et-les-bibliotheques-le-prouvent/>

⁹⁴ This part of the report is the most likely to evolve over time. Towards the end of the project, interviews with stakeholders from museums and institutions under the Ministry of Culture suggest that this question is garnering more and more attention.

⁹⁵ See <http://www.culture.gouv.fr/Espace-documentation/Bases-donnees/>

Commercial activity and digital hesitation

Making collections accessible to as wide an audience as possible may be a core mission for all museums, but they are still faced with a number of hurdles that compromise the free availability and use of collection images. There appears to be general consensus that one of the major difficulties is the current system for administering images of artworks, currently managed for the vast majority of national museums by the photographic agency of the Réunion des Musées Nationaux-Grand Palais.⁹⁶ This system remains unchanged but options are being looked into by the organisation.

⁹⁷ In 2016, the RMN's profits were in the region of €3,500,000, after payments to partner museums, for a global turnover of approximately €50,000,000.

⁹⁸ It is unclear what percentage of this is generated through fees for academic, educational and other non-commercial uses. Whatever the case, it is only a small proposition of the overall profits.

There are a number of other factors that go some way towards explaining, to varying degrees, the situation in France:

- There is no clear encouragement to open up images, and the absence of an **informed debate** on ways to support change on the part of the Ministry of Culture.
- There is a fear among museum staff that there will be a loss of control over works, or that they are "not ready" to give widespread access to images, combined with a limited understanding of the benefits of open content.
- An underlying culture of protectionism focuses on legal issues and prohibited rather than potential usage.
- There is a marked hesitation from museum managers – increasingly encouraged to generate their own income – to commit to new cultural and business models.
- There is a limited grasp of digital culture within the art history and heritage sectors and a lack of familiarity with international OpenGLAM efforts, research projects based on

open content, and the potential of platforms such as Wikipedia or Wikimedia projects.⁹⁹

- The museum sector suffers from lack of digital skills and the absence of digital roles (webmaster, open data manager, digital communications manager, community manager). This is particularly problematic for smaller museums.

In this context, it is encouraging to note that a few French museums have nonetheless made steps to open up their collections, either by uploading their images to the Commons or, rarer still, by making public domain works from their online collections available through an open licence. At present these efforts are limited to county or municipal museums (Toulouse and Rennes) that have chosen to make open data part of their cultural policy, giving them the strength to overcome the hurdles listed above in order to build a closer relationship with their audiences. However, it must be noted that these initiatives are first and foremost down to the time and commitment of the staff involved.

⁹⁶ See Parts II and III.

⁹⁷ Interview with Sylvie Hubac and Vincent Poussou on 4 May 2018; Working group on Photothèque universelle/Open Data, 21 September 2018.

⁹⁸ RMN-Grand Palais, Annual report 2016. The photographic agency delivers 80 0000 images each year, 40 0000 of which are invoiced.

⁹⁹ As highlighted six years ago in the *OpenGLAM* report (2012).

The image agencies' position on open content

The RMN-GP and the French image agencies fear that free access to collection images will have grave consequences on the sector.¹⁰⁰ They are above all concerned by the economic fallout, pointing out that commercial activities around their collections¹⁰¹ help to support the French and international sector. A number of different jobs and professions are involved in the sale of image licences,¹⁰² and commercial relationships have built up between different distributors. They believe that institutional or collective initiatives to make images freely available on the web encourage pillage¹⁰³ and the loss of accurate metadata. Open content policies and the individual contribution of images to the Commons increase this risk, helping to propagate the misconception that images are free and leading to second-rate visuals. Photographers' rights over their photos, including those of works in the public domain, and the decline of image-related jobs, is often put forward as an argument against these policies.

The agencies insist on the fact that, in addition to helping to represent smaller museums, they have expertise in intellectual property and picture research and can ensure correct use where a free system cannot. There are partnerships in place with universities and museums who directly benefit from the scope of their collections, and they are keen to develop this type of partnership particularly through grant-supported projects (Labex, ANR, ERC). They would also like to see researchers better informed on the legal implications of image use.¹⁰⁴

Pioneering initiatives

Toulouse's fine arts museum, the Musée des Augustins, and its archeology museum, the Musée Saint-Raymond, have benefited from a partnership put in place between the City of Toulouse and Wikipedia in 2010. Between 2011 and 2014, the Musée des Augustins collaborated with Wikimedia by inciting members of the public to enhance content uploaded to the platform and to use this to update Wikipedia entries.

"The goal was to publish metadata from the collections database as structured Wikidata in order to create semantic links between the different Wikimedia projects (Wikimedia Commons, Wikipedia) and existing databases and repositories (museum database, Joconde, etc.) and to make these interoperable. Data was cleaned up, mapped and exported, allowing volunteers to upload a significant amount of the collections data in the public domain into Wikidata. This content was placed under a CC0 licence which meant there was no restriction on use. These datasets provide source material for reuse and have already been employed in innovative projects such as the "Les Musées en France" mashup [a website that compiles data from different open sources to build an enriched and autonomous repository of museums with the « Musée de France » label] and the multilingual search engine "Crotos", both enabling museums to benefit from enriched content."

Christelle Molinié, Information Manager, Musée Saint-Raymond, Toulouse

¹⁰⁰ Interviews held on 4 May 2018 (RMN-GP) and 27 June 2018 (SNAPIG).

¹⁰¹ 1 million images for the RMN-GP, and 59 million for the Syndicat National des Agences Photographiques d'Illustration Générale which represents eight generalist and specialist photography agencies.

¹⁰² The RMN-GP employs 20 people and the SNAPIG employs 50 people.

¹⁰³ Bridgeman claims to have identified a million images on Wikimedia that are credited to the person who uploaded them.

¹⁰⁴ There are an increasing number of courses available. See for example the inter-disciplinary courses run by URFIST: <https://sygefor.reseau-urfist.fr/#/training/7092/8412/>

Since 2017, the Musée Saint-Raymond regularly uploads images of works from the collection and temporary exhibitions to Wikimedia. It has also begun to contribute reusable 3D models of its exceptional collection of Roman portraits.

Another institution that has begun to contribute high resolution images of some of the works in its archaeology collection to Wikimedia Commons is the Musée de Dié et du Diois. Available under a CC-BY-SA-4.0 licence, users have access to the museum's rich collection of antique inscriptions, making it possible to decipher them in context and on their original support.¹⁰⁵



Figure 3. Antique inscription held in the Musée de Dié.

¹⁰⁵ Contributor: Fabien Bièvre-Perrin.

As part of its new cultural and scientific strategic plan (2015), the Musée de Bretagne and the Ecomusée du Pays de Rennes (collections of history, ethnography and society) launched a new collections portal in late 2017, becoming the first collection in France to provide an online collection database including open access images. Each image was given the most open licence possible according to its legal status.¹⁰⁶ Founded on the concept of open and participative knowledge sharing, the portal which now includes 600,000 works from the museum's collections, has a particularly user-friendly interface, advanced search possibilities including a number of filters (notably according to licence), thematic access points onto the collection, and opportunities to reuse the images creatively. Much like its international counterparts, this portal is the result of a new and innovative way of promoting and sharing regional collections in a digital age. As well as creating new and interactive relationships with its users, the museum is hoping to encourage research around its collections, and greater visibility for the museum. An art book made from free and downloadable images of its collections has just been published.¹⁰⁷

¹⁰⁶ A fee is applied to images with a resolution of over 3 MP and for works that have not yet been photographed. This covers service charges and is as close to costs as possible (between €20 and €40 euros depending on complexity). See <https://iconautes.inha.fr/fr/index/can-i-use-it.html>.

¹⁰⁷ Capucine Lemaître, Daniel Henocq, *Odorico, l'art de la mosaïque*, éditions Ouest France, 2018.

4.4

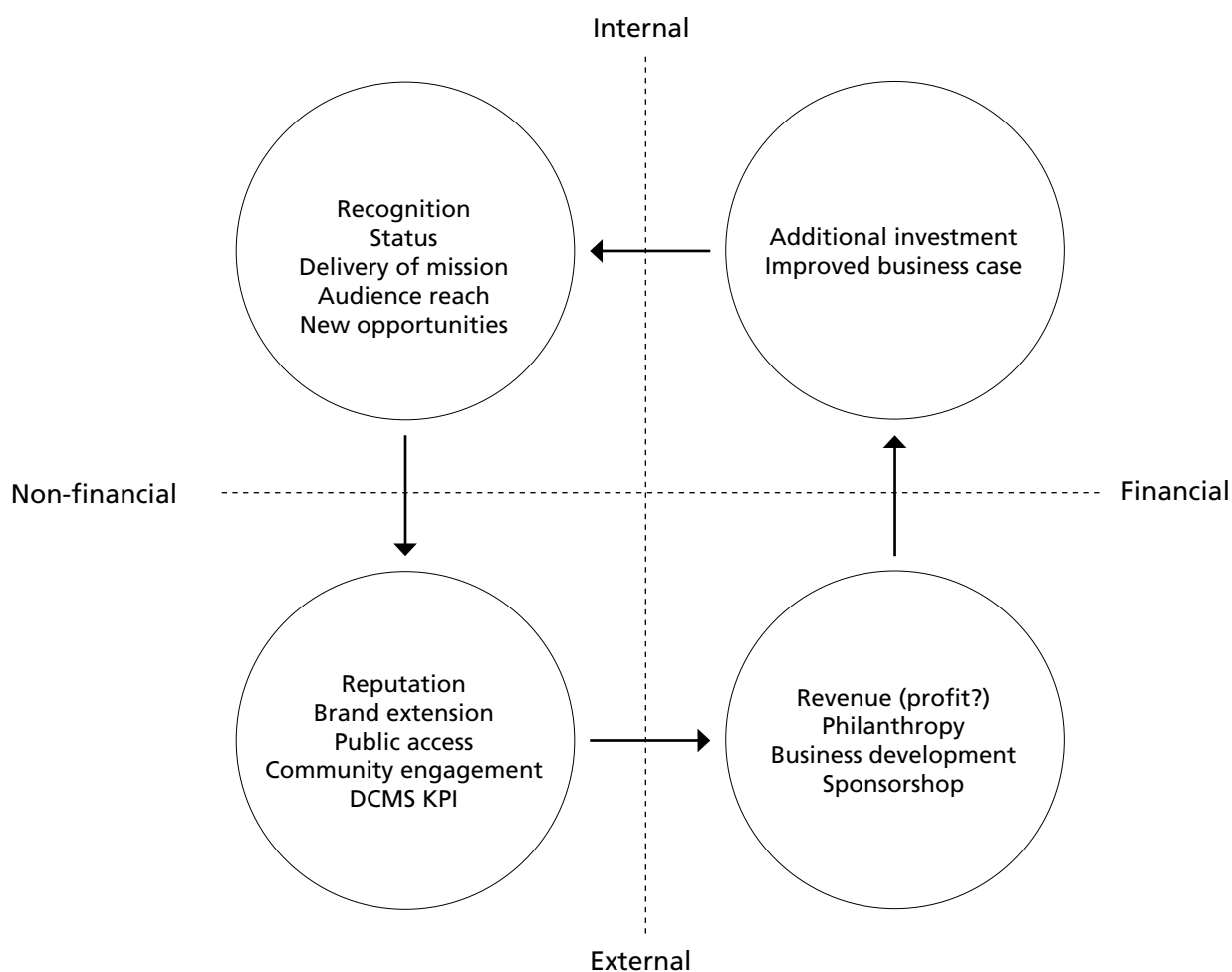
Images as “game changers”. Benefits and advantages of Open content for museums

The benefits of opening up cultural content are no longer purely hypothetical. Museums that have made the transition to open content are not only seen to be breaking new ground, they are now in a position to evaluate the outcomes. A number of trends emerge.

It is important to recognise that while collections, budgets, staff, audiences, business models and open image policies vary significantly from institution to institution, proponents of OpenGLAM have all demonstrated a radical change of approach. They no longer consider value to be purely economic, but rather societal, even though a return on investment is recognised as one of the outcomes of the digital content value chain (see Table 5).

This part of the report presents the deontological, financial and professional benefits of opening up content.

Table 5 : Understanding ROI from digital content.
Source: Collections Trust’s Striking the balance 2015



Deontological benefits

A public service that better meets the needs of its users

Increasing access to collections helps museums to fulfil their public service mission. For many, this is one of the key motivations and sources of satisfaction. No longer safeguarded as money-making assets, digital images become the core museum object in the digital museum. In the words of Di Lees, Director of London's Imperial War Museum, 'online is increasingly the frontline for our museums'.¹⁰⁸ According to Emmanuelle Delmas-Glass of the Yale Center for British Art 'if museums do not participate in the conversation that's taking place online, they will become invisible and irrelevant. Open content is founded on the same principles as those on which these institutions are built, namely to preserve and share cultural knowledge for the benefits of society'.¹⁰⁹ It was this realisation that moved the Metropolitan Museum of Art to rethink its core missions in order to better serve its digital audiences. An upshot of this cultural democratisation is that a museum's core activities, such as conservation and engagement, directly benefit from the technological solutions put in place to support an effective digital strategy.

Tighter control over the quality of online collections

Sharing written and visual information around a collection and ensuring that it is of a sufficient quality is one of the basic responsibilities of a museum. The Rijksmuseum, one of the torch bearers of the open content movement, gives the proliferation of poor quality reproductions available on the web as one of the main reasons for moving to an open policy. According to Keith Christiansen of the Metropolitan Museum of Art, museums who don't take this responsibility seriously must live with the consequences and accept that an abundance of poor quality images and data will continue to circulate on the web.¹¹⁰ As content providers fight to attract and maintain the attention of users, museums must, as a matter of urgency, assert their role as purveyors of quality information and resources.

Improved visibility for all collections

United by a shared ambition to promote their collections and make them available to the widest possible audience, the champions of Open GLAM are proud to be able to share works that would otherwise remain invisible, either because they are too fragile to exhibit, there is insufficient place to show them, or because the museum is temporarily closed for renovation. For the National Museum of Slovakia and the Birmingham Museum & Art Gallery, being able to give the general public access to their collections during long periods of closure was instrumental in their decision to move to open content.¹¹¹

¹⁰⁸ Di Lees, General Director of the Imperial War Museum, quoted in the report *Striking the Balance. How NMDC members are balancing public access and commercial reuse of digital content. Collections Trust/NMDC*, September 2015.

¹⁰⁹ Interview (translated from French) in *Club Innovation & Culture France*, 23 April 2015. See <http://www.club-innovation-culture.fr/emmanuelle-delmas-glass-yale-center-for-british-art-si-les-musees-ne-choisissent-pas-lopen-content-ils-deviendront-invisibles-et-inutiles/>

¹¹⁰ Email exchange with Keith Christiansen (John Pope-Hennessy Chairman of European Paintings, Metropolitan Museum of Art) 1 February 2018.

¹¹¹ McCarthy & Spurdle 2018.

Deeper engagement with wider audiences and a more prominent role for museums in the cultural landscape

For many institutions, opening up images and associated data not only results in greater visibility for their collections, but also creates new opportunities to engage both with the public and with content from other collections and disciplines. For Antje Schmidt of Museum für Kunst und Gewerbe in Hamburg, being able to participate in the creation of a vast digital heritage that is inherently open and international is a real plus for an institution, providing of course that the content is interoperable.

For the Metropolitan Museum of Art, the Smithsonian and the Rijksmuseum, contributing images to platforms such as Wikipedia and Flickr has had a significant impact on the visibility of their collections. On average, Metropolitan collection items on Wikipedia are viewed seven times more than the same items on the museum website, in part as a result of their inclusion in articles in 28 languages. As for the Smithsonian, after just three months on Flickr, the platform clocked up more visitors than the institutional website had done over the past five years.

Founded on the notion of exchange, these communities encourage the emergence of new scholarship and allow works of art to benefit from a plurality of perspectives. For the Te Papa Museum of New Zealand, making the collection available online brought about new relationships with individuals and communities who were willing to share their knowledge with the institution. “That’s what history is, and that’s what makes history alive”, explains William Noel, director of Baltimore’s Walters Museum of Art.¹¹²

For those institutions that have adopted the most generous open access policies, such as the Rijksmuseum and the SMK in Denmark, these new relationships extend to public and civil groups that are not usually in contact with museums and their collections. In Copenhagen, for example, a drug drop-in centre has been wallpapered with works from the SMK collection.

A springboard for innovation and creativity

Supporting economic and social innovation and the design of new and effective services is one of the key arguments put forward by governments who support open public data. While serving as the Commissioner for Digital Economy and Society, Neelie Kroes championed the opportunities for innovation that open cultural collections facilitate. By limiting access to their collections, museums hinder the very creativity they are designed to nurture, and run the risk of falling into the shadows while creatives and developers turn to open collections in search of works that can be manipulated, reinterpreted and enhanced.

According to Merete Sanderhoff of the SMK, open digital collections not only capture the creativity of the past, but serve as ‘building blocks in the hands of creative people now and in generations ahead’.

Better understanding from users

Drawing up and adopting a new image policy requires institutions to formalise the terms and conditions of use. According to the team at the Victoria & Albert Museum, supporting users by clearly defining what is and what is not possible within the terms of the museum’s image policy shifts responsibility onto the user and helps to build confidence between the institution and its audiences.

¹¹² Quoted in Ha 2012.



Roland Searle, *The Open Gateway*. Black and white photograph, gelatin silver print. Museum of New Zealand Te Papa Tongarewa Museum, Wellington. Source: Museum of New Zealand Te Papa Tongarewa Museum. Licence: Public Domain.

Economic benefits

Greater visibility for the museum and its brand

Research is an important tool for building a collection's value. Internal efforts to support knowledge around an institution's collection are necessarily complemented by external research which contributes to the profile and visibility of works. The Rauschenberg Foundation, which is promoting the use of its collection images through a new Fair Use policy, believes that encouraging academics to engage with and use quality images in their lectures, presentations and publications ensures a greater visibility and notoriety for their collection, and allows it to take its rightful place in the history of art.¹¹³

An uptake of collection images in research, teaching and creative pursuits is not the only way to build value. The growth and diversity of uses stimulated by an open policy is instrumental in building the strength, the notoriety and the economic value of an institution's brand. Harry Verwayen of Europeana refers to this as the "spill-over effect".

A more straightforward relationship with commercial partners

Despite the absence of precise figures, many museums assert that the move to open content was largely motivated by financial considerations. Many calculated that the income generated by the sale of images did not weigh heavily in the museum's budget, and rarely exceeded the costs of managing image licences.

For those museums that have opted for a freemium model based on a clear differentiation between commercial and non-commercial licences, new financial models have emerged that capitalise on high performance collection websites and a strengthened brand. Freed from the complex task of deliberating over whether use is commercial or non-commercial, institutions are free to concentrate their efforts on mission-led activities and the development of lucrative partnerships. The Rijksmuseum, for example, has made its entire collection available in high resolution under a CC0 licence, but has maintained a fee for those who wish to purchase an extremely high definition image (a TIFF of over 150 Mo). This has allowed them to develop commercial partnerships with companies such as Heineken and KLM. These types of partnership, which are a great deal more lucrative than the smaller licence agreements that predate their current image policy, would not have materialised had the institution not raised its public profile by opening up its collections.

More efficient IT systems

Rather than maintaining multiple systems and web interfaces for hosting and managing collections, opting for a single asset management system and frontend cuts costs and simplifies associated workflows. For Tom Scott of the Wellcome Collection, streamlining IT systems is both cost-effective and more efficient.¹¹⁴

¹¹³ "Foundation Announces Pioneering Fair Use Image Policy", 29 February 2016 : <https://www.rauschenbergfoundation.org/newsfeed/foundation-announces-pioneering-fair-use-image-policy>.

¹¹⁴ Interview with Tom Scott, Head of Digital Engagement, Wellcome Collection, 21 November 2017.

Access to new funding opportunities

In the United States, digitisation is largely funded by foundations or private companies. Making resulting collections open is increasingly a *sine qua non* condition for grant approval. The European Commission has already made open access a criterion for all grant applications (see **Part II**) and, if French funding bodies are unable to impose such requirements due to the current legal framework, private funders – on which museums will increasingly come to rely – are likely to make open access a prerequisite.

A number of museums have directly benefited from access to new funding opportunities. After placing their collection images under an open licence, the Museum für Kunst und Gewerbe in Hamburg was approached by a number of organisations seeking research project partners, and in each case eligibility depended on intellectual outputs being open. The Te Papa Museum in New Zealand saw a similar growth in interest and has been able to participate in projects from which it was previously excluded.

Professional benefits

Staff recognition

The ability to move staff from managing licences to other mission-led tasks is one of the major upshots for institutions – premeditated by some and a welcome bonus for others. The responsibility for checking that image use complies with an institution's terms and conditions shifts from museum staff to users and automated services make it possible for users to download images directly from the museum's servers. Freed from this task and the associated admin, which can prove particularly arduous when working with opaque criteria, professionals can turn to activities that are more in line with the institution's core missions. Many museums, such as the National Gallery London, the V&A, the Yale Center for British Art, the Los Angeles County Museum of Art and the Musée de Bretagne, have reported that this shift in responsibilities has been particularly beneficial for staff, not to mention for their institutions. The move to open content has allowed staff to build digital skills that can be widely employed in a sector where they are still scarce. At the Metropolitan Museum of Art, the service responsible for image sales has been incorporated into the digital collection team and job titles and descriptions have been revised to reflect this shift in focus.

The mobilisation and implication of museum management and the fact that these new policies involve professionals from across the institution have had a federating effect in a field where some departments and services have little interaction. According to the MKG in Hamburg, knowing that one's work is published and immediately accessible on the museum's website is highly motivational for curatorial or collections management staff who are rarely in contact with the end-user. Working for an institution that is seen to be "doing the right thing" can build pride among staff and increase their sense of value. Conservational staff and researchers have noted a significant increase in efficiency as they rely less on picture researchers to source and manage rights around images used in their exhibitions and publications.

A better understanding of audiences

The Ministry of Culture has announced that inclusion and public engagement must be a core focus in the "20th Century Museum".¹¹⁵ In this context, the digital arena provides an exceptional tool for museum professionals to reach out to new audiences and encourage them to engage with the collection on their own terms and through their own perspective. For institutions that have opted to make their collections available through open licences, such as Hamburg's MKG and Stockholm's SMK, this new connectivity

¹¹⁵ See project report: Eidelman 2017.

signals the dawn of a new age in which the user is not only an ambassador for the collection, but living proof of its relevancy today. The new lifelines that exist between the professional and public sphere, and the plurality of perspectives that result, allow museums to gain a deeper understanding of their audiences and strive to better meet the needs of a society that is more diverse than that for which museums were originally designed.

A growth of partnerships and collaborations

The freedom to initiate partnerships and collaborations that are directly related to their core missions, their collections, their objectives and their ambitions is a real game-changer for museums who have implemented an open content policy. For professionals working across increasingly permeable disciplines (see **Part II**) this new found autonomy brings with it a wealth of epistemological opportunities and revitalises the scientific missions of institutions, allowing them to make headway in a resolutely international arena.

New challenges and opportunities

The museum sector is being pressed on all sides. On the one hand museums are being forced to develop and diversify their sources of income, while on the other they are encouraged to develop their core strategies, to implement key performance indicators, to set ambitious objectives with regards to bringing in new audiences, providing new services, building a digital presence, and shifting focus back on to core activities of conservation and interpretation.¹¹⁶ In this context, coming to terms with the perceived risks around open content (loss of income, control, integrity, attribution, authority and onsite visitors) requires courage, a change in mindset and the aspiration to invest and participate in the society of the future.¹¹⁷

¹¹⁶ Gaillard 2014.

¹¹⁷ According to Naomi Klein, a British lawyer specialised in IP in the museum sector, stakeholders often lack sufficient training in risk management: "being too risk averse can at times be more risky than being cavalier" (interview in London, 21 November 2017).

4.5

Images of art protected by author's rights: Fair Use for Visual Arts and other options

The need for copyright exceptions in art history and the fine arts

Despite the existence of cross-border agreements in some sectors, there is no international legislation on copyright but instead a situation in which each country has its own specific legal arrangements and clauses in place.¹¹⁸ Sourcing images is made all the more complex for art historians when, as is often the case, the body of work they are studying includes works from a host of collections and a host of countries.

In some legislations, copyright laws outline a number of exceptions that fall under “reasonable use”, or “fair use”, such as teaching and research activities. This is the case in the United States which has a “Fair Use” exception. Under the terms of this exception, the user must be able to demonstrate that he or she qualifies for Fair Use, which is not always an easy task, particularly in the case of paid publications. In 2014 the College Art Association (CAA) interviewed 100 visual arts professionals and revealed the uncertainty around this exception. They also demonstrated that the constant fear of copyright infringement was leading art historians to censor their work and avoid the inclusion of important visual resources in their studies.¹¹⁹

To challenge this situation, which the CAA qualified as particularly prohibitive for the discipline, the CAA published a Code of Best Practice for Fair Use in the Visual Arts. This was divided into 5 core areas: Analytic Writing, Teaching about Art, Making Art, Museum Uses and Online Access to Archival and Special Collections.

¹¹⁸ See <http://www.collegeart.org/standards-and-guidelines/intellectual-property/copyright-outside-us>; see Part I for the situation in France, as outlined in article L. 122-5 of the Code de la Propriété Intellectuelle.

¹¹⁹ *Copyright, Permissions, and Fair Use among Visual Artists and the Academic and Museum Visual Arts Communities. An Issues Report, 2014.* See: <http://www.collegeart.org/news/2014/01/29/caa-publishes-fair-use-issues-report/>.



Extract from the Fair Use for Visual Arts

Description:

Analytic writing focuses attention on artists, artworks, and movements; it includes analyses of art within larger cultural, political, and theoretical contexts. Such writing routinely includes reproductions, in full or in part, of relevant artworks in all media, texts, historical images, digital phenomena, and other visual culture. This material—much of it copyrighted—may be drawn from a variety of sources, including the collections of libraries and archives (generally referred to here as “memory institutions”), notes and photographs taken by the writer, and documentary reproductions created or published by others; some works start out in analog formats and others are born digital. Sometimes the visual or textual works reproduced in connection with analytic writing are the specific subjects of analysis. Sometimes they are used to illustrate larger points about artistic trends and tendencies, or to document a particular point or conclusion. Such writing is published both within traditional academic venues and in ever-expanding venues beyond them. It may be published in a variety of formats, including print and electronic books and journals, exhibition catalogues, collection catalogues, blog and social media posts, and contributions to collaborative digital projects, such as wikis (which projects often reside in institutional repositories), or it may be delivered at academic meetings or on similar occasions. The effectiveness of analytic writing about art is improved by the reproduction of the materials that it references. In many instances, particularly for works of visual art, writers may conclude that reproduction of an entire work may be the most appropriate way to make their points.

Principle:

In their analytic writing about art, scholars and other writers (and, by extension, their publishers) may invoke fair use to quote, excerpt, or reproduce copyrighted works, subject to certain limitations:

Limitations

- The writer’s use of the work, whether in part or in whole, should be justified by the analytic objective, and the user should be prepared to articulate that justification.
- The writer’s analytic objective should predominate over that of merely representing the work or works used.
- The amount and kind of material used and (where images are concerned) the size and resolution of the published reproduction should not exceed that appropriate to the analytic objective.
 - Justifications for use and the amount used should be considered especially carefully in connection with digital-format reproductions of born-digital works, where there is a heightened risk that reproductions may function as substitutes for the originals.
 - Reproductions of works should represent the original works as accurately as can be achieved under the circumstances.
- The writing should provide attribution of the original work as is customary in the field, to the extent possible.¹²⁰

¹²⁰ College Arts Association, *Code of Best Practices in Fair Use for the Visual Arts* [online], February 2015. See: <http://www.collegeart.org/pdf/fair-use/best-practices-fair-use-visual-arts.pdf>

A welcome guide for its users, this publication is a sector-wide effort supported by the A. Mellon Foundation and S. Kress Foundation. It not only appeals to art professionals grappling with image use, but also institutions who have works under copyright in their collections.

The Robert Rauschenberg Foundation of New York made its entire collection of images accessible through the terms of Fair Use in 2016. They are now freely available for use in research, education and museum activities. Two main reasons are given on the Foundation website for this change in policy:

- “Due to the prohibitive costs associated with rights and licensing, many scholars and professors limit themselves to using freely available images in their lectures, presentations, and publications, which in turn can alter how art history itself is written and taught.”
- “Given the costs and complexities around using images online and on social media, museums and other institutions are limited in the types of images they can post to their channels. As a result, individual users, not institutions, generate many images of artworks that exist in the digital realm. A lack of “official” images with correct captions and attributions leads to the perpetuation of incorrect information online and on social media.”

These conclusions are applicable to all visual arts activities. Britain is also among the countries that make provision for image use in research in their copyright exceptions with the notion of *Fair Dealing*, although this excludes all commercial use.

European perspectives

Questions around how European cultural policy can make provision for harmonised copyright exceptions are high on the agenda for a number of European art professionals. On the 12 September 2018 the European Commission approved a new, and much contested, copyright directive designed to address how content can be used on the web.¹²¹ In this domain more than any other, digital use has forced a change of perspective and the traditional copyright framework is no longer compatible with the culture of reuse that characterises the internet.¹²² Article 13 in particular effects image use as it covers agreements in place between platforms and rights holders and proposes, in the absence of an agreement, an automatic filtering of works prior to publication on the web.¹²³

It could be argued, however, that change is beginning to take place with the growth of large-scale collective initiatives and the new-found visibility that they offer participating institutions. This is the case of Europeana which represents a great many collections through its portal of 50 million digital works. Filters according to type of use and type of licence allow users to restrict searches to open images and identify the terms and conditions of use governing other works. Thematic entry points onto aggregated collections encourage the discovery of new works. In May 2018 the Hunt Museum in Limerick (Ireland) added its collection of works by designer Sybil Connolly (1921-1998), acquired by the museum in 1999-2000, to the portal under the public domain with the approval of her nephew and beneficiary, John Connolly.

¹²¹ Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market - Agreed negotiating mandate, 25 May 2018: <http://www.consilium.europa.eu/media/35373/st09134-en18.pdf>.

¹²² the first proposal was voted out in July 2018.

¹²³ See the warning emitted on the 4/09/2018 by the Wikimedia Foundation <https://medium.com/freely-sharing-the-sum-of-all-knowledge/your-internet-is-under-threat-heres-why-you-should-care-about-european-copyright-reform-7eb6ff4cf321>. One of the arguments put forward is that web users who contribute to collaborative platforms are already concerned with respecting copyright and filtering what they publish online]. Lionel Maurel gives a nuanced point of view in his blog post of 15 September 2018, <https://scinfolex.com/2018/09/15/la-directive-copyright-nest-pas-une-defaite-pour-linternet-libre-et-ouvert/>.

The reasons for this exceptional “removal of copyright” are outlined by Jill Cousins, director of the museum and ex-director of Europeana, and recall those put forward by supporters of OpenGLAM:

“We want to reach new audiences with our collections and believe that opening up will help us achieve this. With the help of the Wikipedia Editathon, we will improve the data and deepen the research of the Sybil Connolly Collection. We will then upload it to Europeana Fashion and together with the Wiki Commons upload serve the education, research and creative industry communities across the world in more ways than we can imagine.”¹²⁴

The clearly identified institutional advantages of opening up collection images, along with the benefits for research, education and creativity are at the origin of this remarkable initiative. It also reveals one of the other strengths of open content which is to, where appropriate, encourage alternative ways of thinking about copyright in order to serve the interests of artists.

¹²⁴ Jill Cousins quoted in Kelly, Aisling, ‘Hunt Museum digitise the Sybil Connolly Collection’, Limerick Post [online], 9 May 2018 (consulted 27 September 2018). See: <https://www.limerickpost.ie/2018/05/09/hunt-museum-digitise-the-sybil-connolly-collection/>



After Winslow Homer. *Art Students and Copyists in the Louvre Gallery*, Paris, 1868, engraving on wood, 23 x 34,9 cm, gift of Edith Wetmore, Cooper Hewitt Museum, New York. Source: Cooper Hewitt. Licence: Public Domain.

Part V

Appropriation and creative practice

As outlined in the introduction, visual art professionals are not the only people seeking to reuse art images. High fees and copyright restrictions are also curbing visual artists who quote or transform works of art as part of their creative practice. Beyond the visual arts sector, a multitude of initiatives are emerging from diverse segments of the general public who are getting creative with public domain images made available by cultural institutions. This section presents a selection of these projects in order to demonstrate the wealth of creativity that results from a wide dissemination of art images.

5.1

Artists vs copyright



Helene Schjertbeck, *Infantinna Maria Teresia, kopio Velázquezin mukaan* [Copy of Velázquez's painting *Infantinna Maria Teresia*], 1894, oil on canvas, Kansallis Galleria, Ateneum, Helsinki. Photographer: Kansalligalleria/Eweis, Yehia. Source: Finnish National Gallery, Ateneum. Licence: Public Domain

As recent rulings on pillage and plagiarism demonstrate, the re-appropriation of artworks by artists can lead to clashes between certain forms of creation (Appropriation Art) and copyright. In 2009 Richard Prince, the American artist and photographer specialised in the appropriation of mass media images, was taken to court by the French photographer Patrick Cariou over collages and installations which used images from his book *Yes Rasta*. After an initial ruling in favour of the plaintiff, a second 2013 court decision ruled that Richard Price had been working within the terms of Fair Use as the initial works had been transformed into new works. Two new cases, however, were brought against Richard Prince in 2016 and 2018 and revealed the extent to which his creative process challenged the limits of copyright.¹²⁵ Such cases are a real source of debate, as the creative practice of transformation can be seen to give weight to the original works or, on the contrary, to illegitimately appropriate them. The same can be said for a number of practices that have come about with the internet, including mash-ups and remixes.

Similar disputes have emerged in the field of video. The director and visual artist Kader Attia took French rappers Dosseh and Nekfeu to court in 2016 for plagiarism. They were accused of using costumes in their music video *Putain d'époque* that recalled Attia's 2007 installation *Ghost*. As a result, the video was removed from the web. In an open letter, the South African artist Kendell Geers deplored the situation, citing the work of Lautréamont, Gauguin, Andy Warhol and Jeff Koons and demonstrating how he too had borrowed from others in his work. "One artist's plagiarism," he wrote, "is another's sampling and yet another's Appropriation Art and today we may even call it reblogging, retweeting or even sharing."¹²⁶

¹²⁵ « Richard Prince et la loyauté de l'usage transformatif », In: S.I.Lex Carnet de veille et de réflexion d'un juriste et bibliothécaire [blog] 28 April 2013 (consulted 24 September 2018) <https://scinfolex.com/2013/04/28/richard-prince-et-la-loyaute-de-lusage-transformatif/>

¹²⁶ « Putain d'époque ! Lettre ouverte de Kendell Geers à Kader Attia à propos de son action en justice pour plagiat contre Dosseh et Nekfeu », Lunettes Rouges [blog] 6 December 2016 (consulted 24 September 2018). Available at : <http://lunettesrouges.blog.lemonde.fr/2016/12/06/putain-depoque-lettre-ouverte-de-kendell-geers-a-kader-attia-a-propos-de-son-action-en-justice-pour-plagiat-contre-dosseh-et-nekfeu/>

5.2

Copy, quote, recreate: artists and the public domain

Archives et bibliothèques

In Art history, the copy holds a particular value and significance. In previous centuries, studying old masters involved making copies of their works in pencil or paint and was a necessary step in any artist's education. In the 19th Century, fine art schools provided students with vast collections of prints and plaster copies. For those who shied away from the studios of fine art schools, the Louvre provided a refuge in which artists could study the works of the masters first hand.

Students have therefore always been encouraged to progress from the servile copy to the production of their own works, drawing on their visual culture and paying homage to or confronting their spiritual

masters along the way through a process of copy, quotation, dialogue, variation and recreation. In 1993, as part of its bicentennial celebrations, the Louvre organised an exhibition entitled *Copier Créer* which presented 300 works revealing the many facets of this phenomenon.

In 2000 the museum presented a further exhibition called *D'après l'Antique* which showed how studying the work of the past has informed creativity from Antiquity to the present day.¹²⁷

In the 21st Century the art of copying, quoting and recreating is still very much alive and, in the digital age, it is taking on new forms.

Artists as torch-bearers of the public domain

Some artists who are deeply attached to the values of the public domain have taken it as the focus of their work and are committed to sharing the resulting creations in the public space. Julien Casabianca is one such artist. His Outings Project involves plastering posters of figures taken from public domain paintings across the streets. The street artist Ero Ellad works along similar lines, posting portraits of the figures honoured by Paris street names under the corresponding street signs to give a face to these "famous strangers".

¹²⁷ *Copier Créer : De Turner à Picasso 300 œuvres inspirées par les maîtres du Louvre*, Musée du Louvre, Paris, 26 April - 26 July 1993; *D'après l'antique*, Musée du Louvre, Paris, 16 October 2000 - 15 January 2001.

Outings project

In 2014, the artist Julien Casabianca launched the Outings project, which involved cutting out figures from old and little-known paintings, blowing them up to a very large scale and pasting them on the walls of buildings. The idea is to take works out of the museum and into the street to reach new audiences, in particular those who are unlikely to set foot in a cultural institution. Passers-by have a one-to-one with the art of the past.

"Museums are built not only to safeguard, but to show what belongs to us all. By taking works into the street, they are made available to those who would have otherwise never seen them."¹²⁸

The Outings Project is participatory and has seen figures appearing across the walls of Paris, London, Mumbai, Zagreb, Tel Aviv, New Orleans, Islamabad and Belo Horizonte, sometimes in collaboration with local museums. Some of the collages have been produced in workshops involving young people.

Project website: <http://www.outings-project.org/>



¹²⁸ Words of the artist, quoted in an interview in *Les Inrocks*. Anonymous, « Outings project : quand l'art s'échappe des musées pour la rue », *Les Inrocks*, 13 May 2015 (consulted 24 September 2018). See <https://www.lesinrocks.com/2015/03/13/style/outings-project-quand-lart-sechappe-des-musees-pour-la-rue-11838409/>

Street portraits

Giving faces back to some of the illustrious figures that have left their names to the streets of Paris is the goal of street artist Ero Ellad. Since 2014 she has been plastering posters of these “famous strangers” across the city. The images come from the internet and are reworked to give them a coherent visual identity, then printed out and pasted below the corresponding street signs. This practice builds on the remix and reproduction work carried out by some of the key figures of Pop Art, and introduces a new participatory dimension as members of the public are encouraged to produce their own versions in their hometowns and neighbourhoods.¹²⁹

Artist's website: <https://www.dalleore.com/portrait-de-rue>



¹²⁹ "Portrait de rue, projet street art de Ero Ellad. Il a une drôle de tête ce type-là", *Romaine Lubrique*, 10 October 2014 (consulted 24 September 2018). See <http://romainelubrique.org/portrait-de-rue-ero-ellad-street-art>

In 2017, just as article 13 of the European Copyright Directive in the Digital Single Market was being debated, the *Create.Refresh* campaign was launched. Artists from across Europe participated by creating works addressing creativity and freedom of expression online. 80 of these were included in an exhibition held at the European Parliament in April 2018.¹³⁰

The public domain as a source of inspiration

Without necessarily commenting on the public domain in their work, many artists use it as a source of inspiration. Max Ernst, for example, used woodcuts from the illustrated press and books of the previous century in his collage work (see for example *La femme 100 têtes*, 1929 and *Une semaine de Bonté*, 1934).¹³¹

This practice is still commonplace today. In 2014, for example, the artist Emma Midway created a collection of collages inspired by Borges' *The Library of Babel* using hundreds of digital images from the British Library.¹³²

¹³⁰ See « Creators of European Digital Culture exhibition » in the Kennisland agenda: <https://www.kl.nl/events/creators-of-european-digital-culture-exhibition/>

¹³¹ Weber Spies, *Max Ernst- Loplop, L'artiste et son double*, translated from German by Claire de Oliveira, Gallimard, Paris, 1997.

¹³² "Les collages borgésiens d'Emma Ridway. British Library Remix", *Romaine Lubrique*, Domaine public, 10 November 2014 (consulted 24 September 2018). See <http://romainelubrique.org/emma-ridgway-british-library>

Illustrating *The Library of Babel* with public domain works

In 2014 the London-based illustrator Emma Ridgway created compositions inspired by Jorge Luis Borges' *The Library of Babel* (1941) using digital images from the British Library available on Flickr. These were cut and pasted, in the same way that Max Ernst produced his famous collage novels *La femme 100 têtes* and *Une semaine de Bonté*.

Introduction to the project:

<https://emmycrayon.wordpress.com/tag/monoprint/>



5.3

The socio-digital revolution and new ways of seeing

Institutional initiatives encouraging reuse

A number of institutions are in favour of, and indeed actively encourage, creative reuse of their works. The Rijksmuseum, for example, which has made its public domain works available since 2014, launched a publicity campaign, "Create your own work of art", along with a Rijksstudio Award celebrating creations inspired by works from the Rijksmuseum collection.¹³³

Drawing inspiration from Europe's great success story, the BnF launched GallicaStudio in 2017 where online visitors can find ideas, feedback and tutorials on how to reuse and engage with the Gallica digital library's content.

¹³³ Martijn Pronk (Rijksmuseum): «The Rijksstudio has attracted 15 million visitors and 200,000 personal accounts have been created» [interview], *Club Innovation & Culture France*, 24 April 2015 (consulted 23 September 2018). See <http://www.club-innovation-culture.fr/martijn-pronk-rijksmuseum-le-rijksstudio-a-attire-quelques-15-millions-de-visites-pour-200-000-comptes-personnels-crees/>; Martijn Pronk, « Le Rijksstudio ». *Bulletin des bibliothèques de France (BBF)*, 2013, n° 5, p. 61-63 (consulted 23 September 2018). See <http://bbf.enssib.fr/consulter/bbf-2013-05-0061-015>.



Rijksstudio

Launched in 2012 while the Rijksmuseum was closed for renovation, the Rijksstudio is first and foremost the online catalogue of the museum's collections. Its real innovation, however, lies in the place given to users who, once registered, can create their own thematic albums and download high resolution images of all works in the public domain for free. Users are given ideas on how images can be reused (phone cases, posters, even tattoos) and encouraged to use them creatively. Since 2015, the institution has hosted an annual design competition with a cash prize of €10,000.

Rijksstudio website: <https://www.rijksmuseum.nl/en/rijksstudio>

Rijksstudio Award website: <https://www.rijksmuseum.nl/en/rijksstudio-award>

Les tutos de Gallica Studio : le sapin de Noël en origami

9 novembre 2017 / Thomas Henry



Gallica Studio

Gallica Studio was launched in 2017 to mark the 20th anniversary of the online library. It is designed to promote the community of “Gallicanautes” and celebrate creative practice using digital resources made available by the French national library. The website showcases personal and group projects, case studies and online tutorials.

While Gallica Studio is inspired by the Rijkstudio, it is only designed for non-commercial use. Commercial use requires paying a fee to the institution.

Gallica Studio website: <http://gallicastudio.bnf.fr/>

Exhibition to promote free access to collections of artworks

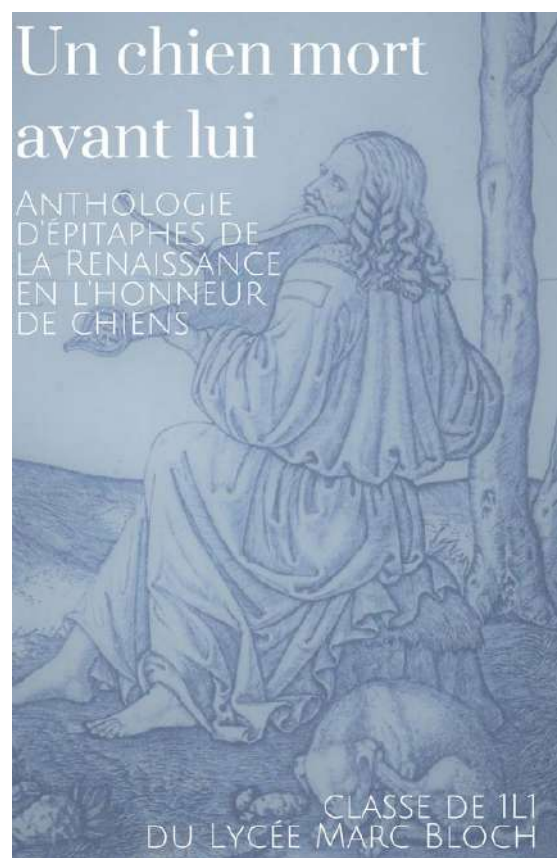
In 2017 and 2018, a number of establishments in the Hérault multimedia library network put on exhibitions composed of reproductions of works from the Metropolitan Museum Art available as open content (*Met In/Out* and *Ukiyo, images d'un monde flottant*). To demonstrate the opportunities brought about by open content, visitors were invited to take away a printed reproduction of their choice.¹³⁴ According to the network director, a number of visitors were heard to say “but are you allowed to do that?”, proof that there is still some way to go before people understand image rights.

¹³⁴ Interview on both exhibitions with Christian Rubiella, Director of the network of media libraries of the Hérault-méditerranée region, *Club Innovation & Culture France*, 23 May 2018 (consulted 23 September 2018).

Appropriating heritage

By making their images freely available, institutions allow their audiences to engage with a shared cultural heritage. This can be seen through the many sites and blogs produced by local history or genealogy enthusiasts who draw upon digital source material to illustrate and nourish their work. Teachers are also avid users of digital assets in their classroom activities.

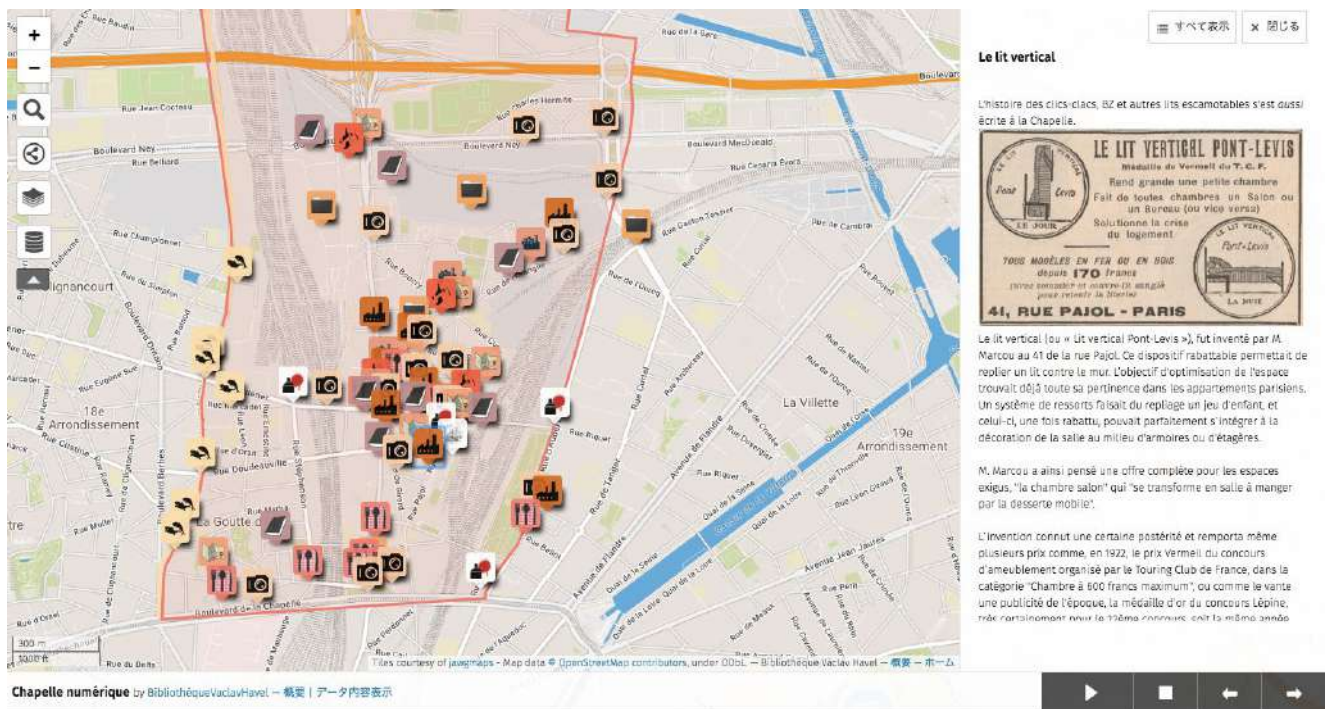
A number of larger scale projects have also emerged, such as the *La Chapelle Numérique* project, an online collection of documents on the history the 18th arrondissement in Paris and *PhotosNormandie* which contextualises photographs of the 1944 Normandy landings.



Un chien mort avant lui

This anthology of Renaissance epitaphs honouring dogs was published by secondary school pupils from Strasbourg's Lycée Marc Bloch. Teachers Nicolas Bannier and Marie-Jo Greff wanted to introduce their pupils to Gallica and a forgotten form of 16th century poetic literature. The pupils chose the epitaphs and sourced illustrations from Gallica. The anthology was published as an eBook.

Downloadable EPUB: https://drive.google.com/file/d/1WY7PfKxklmrV6Evo_DUhmzV4_B41dS-/view



The screenshot displays a digital map of a Parisian neighborhood, specifically the 18th arrondissement, with numerous icons representing historical and cultural points of interest. The map is titled "Chapelle numérique" and includes a sidebar with a historical advertisement for "Le lit vertical".

Le lit vertical

L'histoire des clics clics, BZ et autres lits escamotables s'est aussi écrite à la Chapelle.

LE LIT VERTICAL PONT-LEVIS
Médaille de Vermeil du T. C. F.
Grand grande une petite chambre
Fait de toutes chambres un Salon ou un Bureau (ou vice versa)
Solutionne la crise du logement

Tous modèles en fer ou en bois depuis 170 francs
C'est le meilleur et le moins cher pour rendre la literie

41, RUE PAJOL - PARIS

Le lit vertical (ou « lit vertical Pont-Levis »), fut inventé par M. Marcou au 41 de la rue Pajol. Ce dispositif rabattable permettait de replier un lit contre le mur. L'objectif d'optimisation de l'espace trouvait déjà toute sa pertinence dans les appartements parisiens. Un système de ressorts faisait du repliage un jeu d'enfant, et celui-ci, une fois rabattu, pouvait parfaitement s'intégrer à la décoration de la salle au milieu d'armoires ou d'étagères.

M. Marcou a ainsi pensé une offre complète pour les espaces exigus, "la chambre salon" qui "se transforme en salle à manger par la desserte mobile".

L'invention connut une certaine postérité et remporta même plusieurs prix comme, en 1922, le prix vermeil du concours d'ameublement organisé par le Touring Club de France, dans la catégorie "Chambre à 500 francs maximum", ou comme le vante une publicité de l'époque, la médaille d'or du concours Lépine, très certainement pour le thème connexe, soit la même année.

Chapelle numérique by BibliothèqueVaclavHavel - 概要 | データ内容表示

La Chapelle numérique

Started in 2015 by the Vaclav Havel library in the 18th arrondissement of Paris, the *La Chapelle numérique* project brings together a corpus of documents on the history of the La Chapelle neighbourhood in the north of Paris. The library does not hold physical local collections; the corpus is entirely made up of digital documents in the public domain produced and made available by other institutions or documents published online through open licences (Creative Commons) which are presented on a u-map and a web space.

The tool enables users to appropriate an area through its history. The project has seen widespread take up from local residents who have contributed personal photos and oral accounts. It encourages users to engage with their cultural heritage while improving their digital skills.

The project : https://umap.openstreetmap.fr/ja/map/chapelle-numerique_41723#15/48.8918/2.3733



PhotosNormandie

PhotosNormandie¹³⁵ is a crowdsourced project built on a corpus of photographs and films with no known copyright held in the national archives of America and Canada. Digitised in 2004 to mark the 60th anniversary of the Normandy Landings, thousands of photographs were made available online with partial or inaccurate captions. Patrick Peccatte and Michel Le Querrec were joined by a handful of enthusiasts and experts in a monumental cataloguing exercise aimed at describing, localising and dating each photo with as much detail as possible. This remarkable project, which developed beyond the bounds of an institution, resulted in the documentation of over 5000 images in ten years. These are all available on Flickr. Since 2013 the project has extended to incorporate 300 archival films. The project has succeeded in attracting 175,000 visits per day, a figure which can rise to millions during commemorations or popular exhibitions.

The project: <https://www.flickr.com/people/photosnormandie/?rb=1>

¹³⁵ Patrick Peccatte, « La FAQ du projet PhotosNormandie », Déjà vu, carnet de recherche de Patrick Peccatte [on line], 17 January 2017 (consulted 23 September 2018). See <https://dejavu.hypotheses.org/2998>

GIFS and memes

An internet meme is content such as an image, a text or a video that goes viral on the web; it is reused, reinterpreted and modified by users to evoke a particular message, idea or state of mind. The phenomenon relies on diversion, repetition, creativity and humour. The original content serves as a template for new content according to a pattern, in which the community anchor a particular meaning. A meme is therefore a way to appropriate content – often visual – through popular culture.

Someone wishing to express exasperation in a given conversation or thread, for example, may choose to use a photo or a GIF of a famous actress rolling her eyes. LOLcats – photos of cats in comical situations with captions in approximate English – are another popular form of meme.

In addition to images or texts taken from films, music videos or the media, many memes revisit and reinterpret works of art. Among the most popular images are Munch's *Scream*¹³⁶, Da Vinci's *Last Supper*¹³⁷ and Michelangelo's *Creation of Adam*.¹³⁸



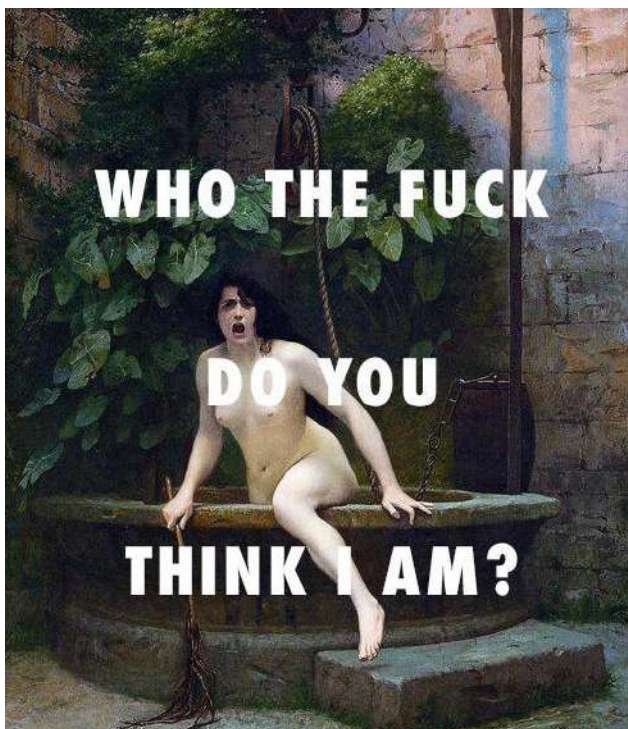
¹³⁶ A thread by Virgile Septembre on reinterpretations of Munch's *Scream*: https://twitter.com/V_Septembre/status/564153196810354689

¹³⁷ Brad Kim and Mandrac, "The Last Supper Parodies", *KnowYourMeme*, 2012. See <https://knowyourmeme.com/memes/the-last-supper-parodies>

¹³⁸ Don Caldwell, "The Creation of Adam Parodies", *KnowYourMeme*, 2015. See <https://knowyourmeme.com/memes/the-creation-of-adam-parodies>

In addition to famous masterpieces, works that are little known beyond art history circles have gained a certain notoriety following their adoption as memes. This is the case, for example, of Joseph Ducreux's *Self-portrait*¹³⁹ and Jean-Léon Gérôme's *Truth Coming Out of Her Well to Shame Mankind*.¹⁴⁰ This allows visual culture that was the reserve of the savant to be infused with a new lease of life and a new relevancy.

The English language collaborative website "KnowYourMemes" tracks and catalogues memes and lists both the source and the associated interpretations. There are also sites that allow users to generate their own memes, one of the most famous being *Les tapisseries autogérées* based on motifs taken from the Bayeux tapestry.



¹³⁹ Caozao, "Joseph Ducreux / Archaic Rap", *KnowYourMeme*, 2010. See <https://knowyourmeme.com/memes/joseph-ducreux-archaic-rap>

¹⁴⁰ Matt and Dopesmoker, "Truth Coming Out of Her Well to Shame Mankind", *KnowYourMeme*, 2018. See <https://knowyourmeme.com/memes/truth-coming-out-of-her-well-to-shame-mankind>

The screenshot shows a Facebook page for 'Classical Art Memes' with the following content:

- Page Header:** 'J'aime déjà', 'Déjà abonné(e)', 'Partager', and 'Acheter' buttons.
- Profile:** Profile picture of a man, name 'Classical Art Memes', and handle '@classicalartmemes'.
- Navigation Menu:** Accueil, Publications, Vidéos, **Photos**, À propos, Communauté, Infos et publicités.
- Grid of Memes:**
 - Top Row:**
 - Meme 1: 'Halt peasant!' and 'We prefer to be called "young aristocrat" as that's less negative connotations.'
 - Meme 2: 'The ancient Romans only gathered one week, because that was enough foru'.
 - Meme 3: 'Hey girl, haven't I seen you someplace before?' and 'Yeah, that's why I don't go there anymore'.
 - Meme 4: 'I've been here since I never I'm around and I'm heart skips a beat' and 'The young girl's palpitations'.
 - Second Row:**
 - Meme 5: 'If only we had checked ourselves'.
 - Meme 6: 'Cake isn't t thing you'll eating tonight to: from:'.
 - Meme 7: 'you put lyrics in an fb status people think it's about them'.
 - Meme 8: 'I can't do without you' and 'After she'.
 - Third Row:**
 - Meme 9: '"Is it too early to get drunk?" she pondered at 9am whilst drunk'.
 - Meme 10: 'James had two of his servants try to help put skinny jeans on but they just wouldn't fit... it a he will no longer be the most emo slui at the l'.
 - Meme 11: 'Fapoleon Bonerparte'.
 - Meme 12: 'This morning'.
 - Bottom Row:**
 - Meme 13: 'It's not just me that thinks you need a girlfriend, my uncle does too'.
 - Meme 14: 'not through it'.
 - Meme 15: 'When u wanna go out but can't find a good outfit to wear'.

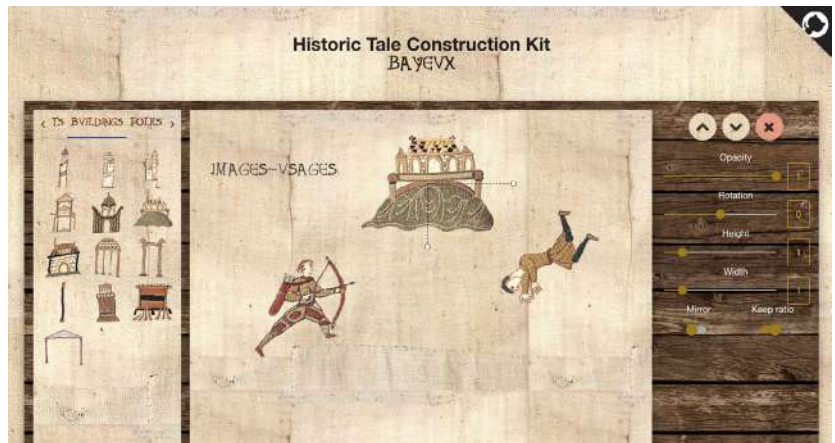
Classical Art Mèmes

Created in 2014, the Facebook page Classical Art Mèmes brings together hundreds of memes that the page's administrator claims to have created. Almost all of the images are of works in the public domain. This page is extremely popular and has over 5 million followers.

Facebook page: <https://www.facebook.com/pg/classicalartmemes/>

Me stressing over things
I can easily resolve





Les tapisseries autogérées

In 2003, the German developer Bjorn Karnbogen gained acclaim for his online generator of animated cards. One of his most famous creations, *The Historic Tales Construction Kit*, allowed users to make virtual cards from motifs taken from the Bayeux Tapestry. Very popular with members of the 4chan forum in the 2000s, it was taken offline in 2011. In 2015 a tribute project was created on GitHub which has given the generator a second life. The Twitter account "Les belles tapisseries autogérées" was launched in 2018 and the generator has since gained popularity with French audiences.

Meme generator: <http://htck.github.io/bayeux/#/>

Twitter account for the "tapisseries autogérées" : <https://twitter.com/Belletapisserie>

The GIF is another important vector of web culture. This format, short for Graphics interchange format, can be used to create short animations or clips that run on a loop. A number of memes use this format.¹⁴¹ It has also become a favourite means of expression for digital artists, many specialising in GIFs based on artworks.

Cultural institutions, recognising the appeal of GIFs, have also begun experimenting with this format. The New York Public Library has been particularly active on this front and many other institutions, including some in France, have followed suit, using this animated format as a way to rejuvenate their public image.



Scorpion Dagger takes on the Northern Renaissance

Canadian artist James Kerr, under the pseudonym of Scorpion Dagger, has been keeping a blog since 2012 of his GIFs and reinterpretations of Northern Renaissance works.¹⁴² His short and comical scenes, now in their thousands, have been compiled in a multimedia publication. His work is followed by over 50,000 people on Facebook.

Tumblr blog: <http://scorpiondagger.tumblr.com/>

¹⁴¹ As technology evolves, the GIF format is increasingly being replaced with video formats, particularly on social networks.

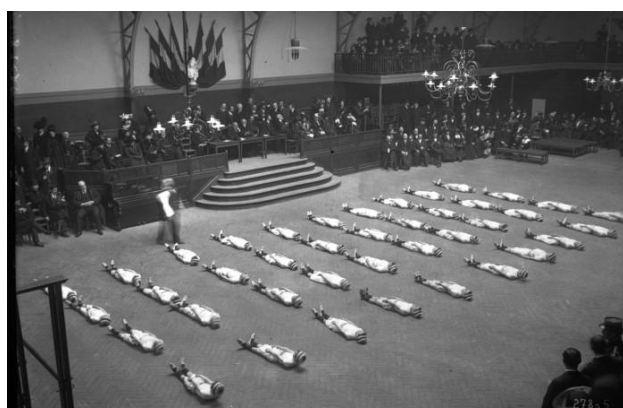
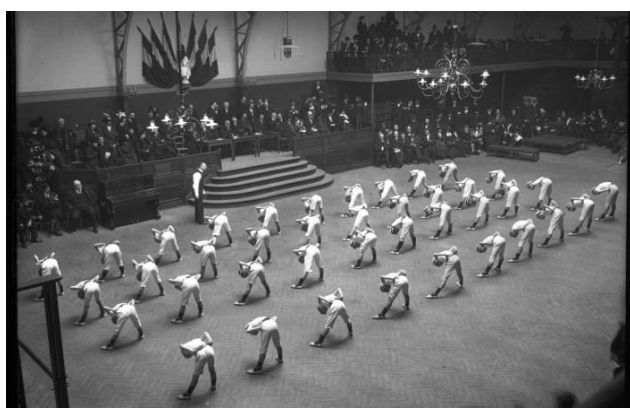
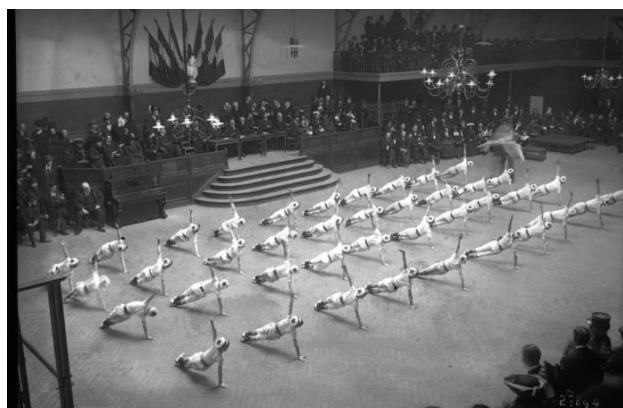
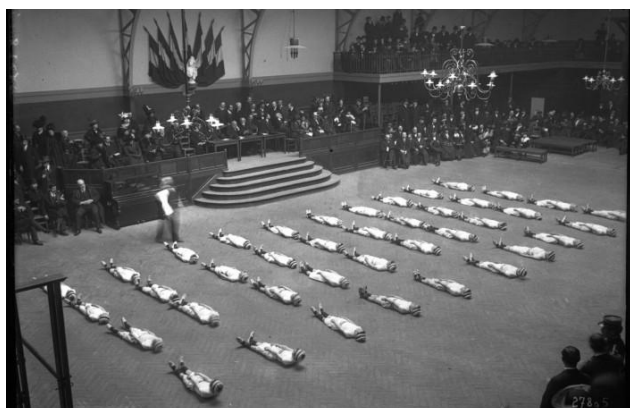
¹⁴² Paola Donatiello, "Interview James Kerr aka (?) Scorpion Dagger", Doppiozero, 27 August 2015 (consulted 23 September 2018). See <http://www.doppiozero.com/materiali/interviste/interview-james-kerr-aka-scorpion-dagger-0>

Institutional creations from works in their collections

In 2012 “GIF” was named word of the year by the *Oxford American Dictionary*. The love of GIFs eventually reached cultural institutions and soon the New York Public Library and the US National Archives were creating GIFs from works in their collections. French institutions, such as the BnF were soon following suit and using this novel way to “dust off their collections” as the media put it.¹⁴³ The resulting GIFs can be humoristic or, alternatively, have an educational bent. They can be used, for example, to recreate flip books, show the different states of an engraving or the effects of a stereoscopic view.

Members of the general public participate in this process and competitions have emerged, such as that organised by the Digital Public Library of America, which encourage reuse. Workshops have also been organised to familiarise users with digital image retouching tools.¹⁴⁴

Animated GIF section of the Public Domain Review: https://publicdomainreview.org/collections_categories/animated-gifs/



¹⁴³ Laurent Provost, “Gallica dépoussière la BnF grâce à ses GIFs”, *Huffigton Post*, 5 September 2014 (consulted 23 September 2018). See https://www.huffingtonpost.fr/2014/09/16/gallica-gif-pinterest-bnf_n_5829996.html; Jessica Fèvres-de-Bideran, “Quand la BnF rencontre la culture web, la création de Gif animés par Gallica”, *Com’ en Histoire*, research notes from Jessica Fèvres-de-Bideran, 29 September 2014 (consulted 23 September 2018). See <https://cehistoire.hypotheses.org/212>; Anonymous, “La BnF fait le buzz avec ses GIFs animés inspirés des œuvres de la collection Gallica”, *Club Innovation & Culture France*, 22 September 2014 (consulted 23 September 2018). See <http://www.club-innovation-culture.fr/la-bnf-fait-le-buzz-avec-ses-gifs-animes-inspires-des-oeuvres-de-la-collection-gallica/>

¹⁴⁴ Maiwenn Bourdic, “Créer des Gifs animés”, *Patrimoine et numérique*, 28 September 2016 (consulted 23 September 2018). See <https://www.patrimoine-et-numerique.fr/tutoriels/40-32-creer-des-gifs-animes>

3D digitisation

Cultural institutions are increasingly photographing their entire collections through 2D digitisation. Allowing museum visitors to take photographs of exhibits is also increasingly commonplace and rarely contested. But new image capturing needs and practices are already emerging, in particular that of 3D digitisation.

Beyond looking at digital photos of a sculpture, 3D digitisation allows users to see all sides of a work, to manipulate it, and even go as far as putting it back together with other items, including lost components. 3D technology has come on leaps and bounds in recent years. A user can now walk around a work on display with a simple smartphone and app and create a 3D model. This opens up a whole new world of possibilities.

Some institutions have begun to experiment with 3D digitisation as part of research projects and have enlisted the services of specialist providers. High definition digitisation can be used to create 3D models that can be manipulated by researchers, but also virtual reconstructions that appeal to the general public.

Many of these creations, however, have restrictions governing their access and use and cannot be seen by the general public. This is particularly problematic when the original works, such as prehistoric wall paintings, are inaccessible, greatly limiting their educational and social value.

In order to give wide access to 3D models, some individuals have produced their own digital files which they upload to specialised platforms such as Sketchfab. These are available for all manner of uses, from simple manipulation to creative and digital projects involving 3D printing. In some Fab Labs it is possible to print sculptures in 3D.

With 3D modelling software becoming increasingly available to the general public, particularly via mobile apps, some museums are unsure how to respond to these new practices. Should they be prohibited, tolerated or encouraged?

Some institutions, such as the Musée Saint-Raymond in Toulouse¹⁴⁵ or the Art Institute of Chicago¹⁴⁶ have opted to make their own 3D digitisations available to the public.

¹⁴⁵ Musée Saint-Raymond on Sketchfab: <https://sketchfab.com/museesaintraymond>

¹⁴⁶ The Art Institute of Chicago on Thingiverse: <https://www.thingiverse.com/ArtInstituteChicago/collections/museum-love-in-3d/>

A Mesopotamian cake mould in action again after 4000 years underground

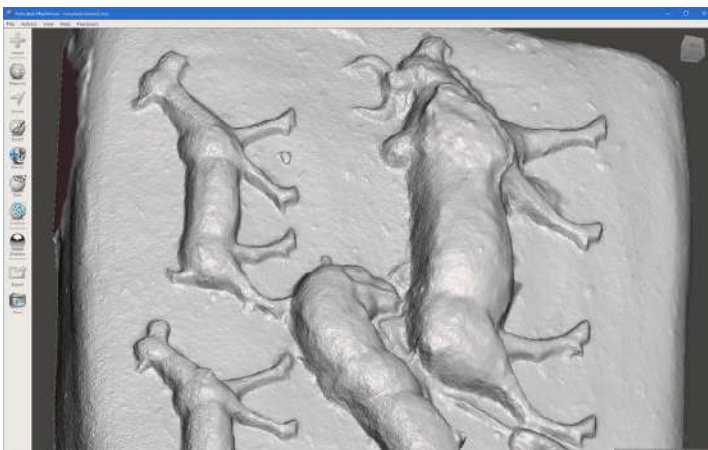
In 2017 a 3D scanning enthusiast, Benoît Rogez, embarked on a novel project. He decided to reproduce cake moulds that had surfaced in archaeological digs in Mari (now Syria) held in the Louvre.

Photographing artefacts through their glass presentation cases from different angles, he used a number of specialised software programmes to construct 3 dimensional models. These were then sent to a company that made a negative of the mould which was then coated in silicon.

The moulds were used to bake contemporary recipes (with success) until Ariane Aujoulat, an art history PhD student specialised in the Middle-East, suggested a recipe for "mersu", a typical bread baked in the Mesopotamian era. To allow wide spread use of these moulds, the 3D models were made available through a Creative Commons licence.

The « making of » the project: <http://www.3dvh.com/dossier-1431-1-degustations-antiques-creation-moules-photogrammetrie-et-impression-3d.html>

Twitter thread on Mesopotamien recipes: <https://twitter.com/museolepse/status/941643752657051648>

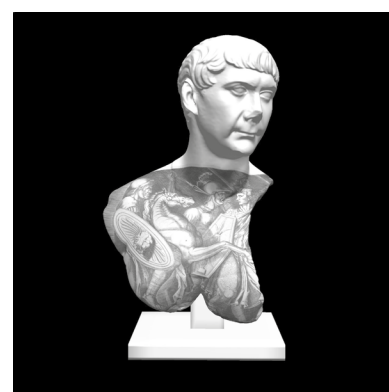
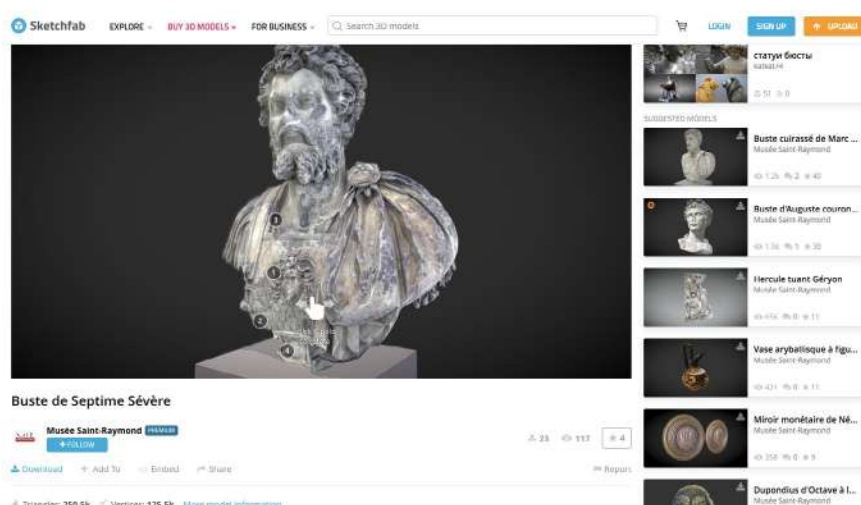
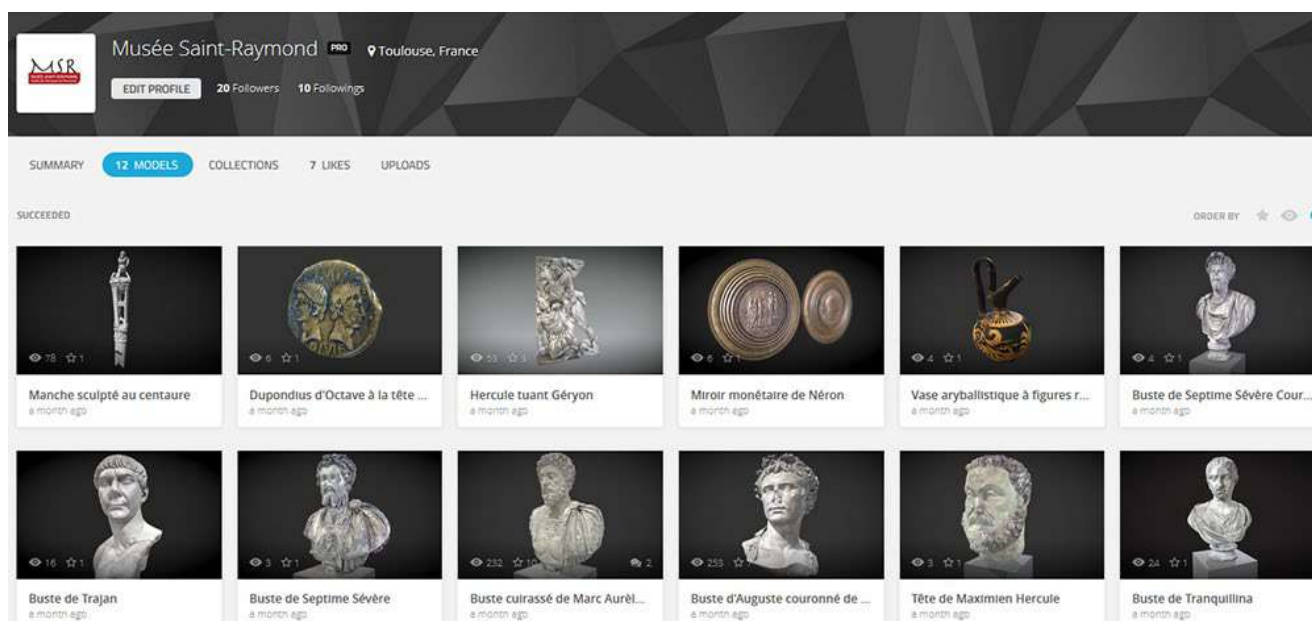


The Musée Saint-Raymond on Sketchfab

In 2014 the Musée Saint-Raymond in Toulouse began working with a company specialised in 3D digitisation to capture some of their works in order to make reconstructions or tactile models to support research and interpretation. The museum made these available on Sketchfab through a CC-BY-SA licence and encouraged their online visitors to use them.¹⁴⁷ The artist Alice Martin used these models to create new works.

The museum's account on Sketchfab : <https://sketchfab.com/museesaintraymond>

Alice Martin's website: <http://cargocollective.com/alicecmartin/Trajan-Two-Ways>



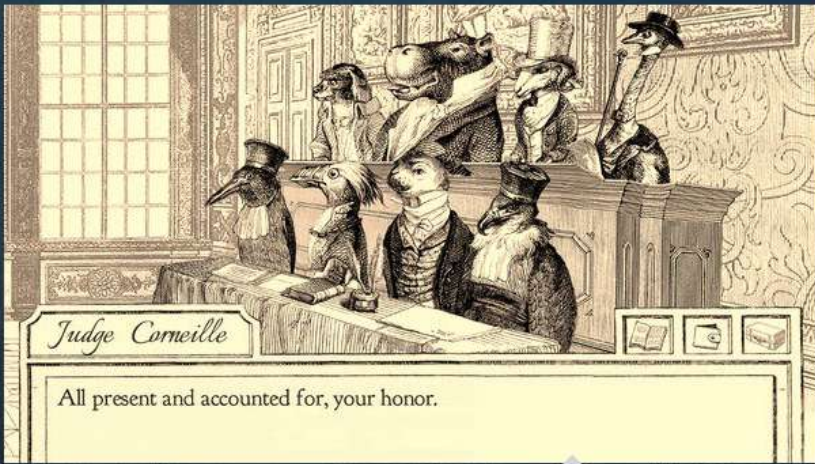
¹⁴⁷ « Le MSR ouvre sa galerie de modèles 3D sur Sketchfab », Musée Saint-Raymond website (no date) : https://saintraymond.toulouse.fr/Le-MSR-ouvre-sa-galerie-de-modeles-3D-sur-Sketchfab_a897.html

Commercial use

Tous les jeux > Aventure > Aviary Attorney

Aviary Attorney

Hub de la communauté



Judge Corneille

All present and accounted for, your honor.

TOUTES LES ÉVALUATIONS : très positives (601)

DATE DE PARUTION : 22 déc. 2015

DÉVELOPPEUR : Sketchy Logic

ÉDITEUR : Sketchy Logic

Tags populaires des utilisateurs pour ce produit :

Histoire visuelle Indépendant Aventure Détective +



Aviary Attorney, a video game inspired by Grandville's prints

Released in 2015 by Sketchy Logic, Aviary Attorney is a video game in which all visuals are taken from Grandville's *Scènes de la vie privée et publique des animaux*, mixed and animated along with a few other works in the same genre from the mid-19th Century. The narrative takes place in 1840s Paris and the player must solve a mystery to a soundtrack of music by Saint-Saens, also in the public domain

Official site: <http://aviaryattorney.com/>

The game on Steam: https://store.steampowered.com/app/384630/Aviary_Attorney/

Wear your favourite work

Some people like a painting or a print enough to want to wear it! In 2016 Michelle Obama appeared on a television talk show with a dress adorned with a well-known colour print, *Carte du Tendre* (1654) attributed to François Chauveau. It was designed by the luxury fashion house Gucci. More affordable options include 2018 designs for shoes, bags and backpacks based on Van Gogh's works by streetwear brand Vans. These were sold out just a few days after going on sale.

There are also a number of affordable options on offer from online printing service providers who can personalise fabrics according to their clients' wishes, printing items incorporating details from a naval chart or a painting by Kandinsky for example.



Tattoos

Many tattoo artists look to artworks for inspiration. Mediaeval manuscripts, 16th Century engravings, tarot cards and Art Nouveau motifs are just some of the popular sources of inspiration that are benefiting from a new and unexpected visibility.



Ancient engravings: a reliable source for tattoo artists

Prints by Dürer, tarot cards and xylographs from the late Middle Ages and the Early Renaissance share a preponderance of black and white, intricate graphics and an iconography that appeals to both tattoo artists and their clients. Rosaline Bucher, a Strasbourg based tattoo artist, is just one of the artists who looks to this period when creating her motifs. Internet provides an endless source of inspiration. "I look for ideas on the internet. There are wonderful websites where people post scans of very old images found in archives. It feels like team work!".¹⁴⁸

Rosaline Bucher's Facebook page: <https://www.facebook.com/roselinebuchertattoo/>

Rosaline Bucher's Instagram page: <https://www.instagram.com/roselinebucher/>

¹⁴⁸ Lulu, "Rosaline Bucher", *Rock'n'art of Elsass*, 26 July 2017 (consulted 23 November 2018). See <http://rocknartofelsass.blogspot.com/2017/07/roseline-bucher.html>

Mucha, a surprising favourite for colour tattoos

The works of Alphonse Mucha, one of the emblematic figures of Parisian Art Nouveau, fell into the public domain less than ten years ago. He is now one of the most popular sources of inspiration for colour tattoos. Samoth, a tattoo artist from the Coco Bongo Tattoo Club in Tours, says "his style lends itself particularly well to tattoo art because of the clarity of his lines (which vary in thicknesses to give depth to his work). Or because of the adaptability of his lines to the human body."



Tattoos Inspired by Alphon...
inkedmag.com



I think my next tattoo will b...
pinterest.com



Stunning Tattoos Inspired by Alphonse ...
tattoo.com



Resultado de imagen de al...
pinterest.fr



314 best Mucha, Art Nouv...
pinterest.com



35 Alphonse Mucha Inspir...
pinterest.fr



Alphonse Mucha by Cisco...
pinterest.com



Alphonse Mucha by Brody ...
reddit.com



Tattoo - Art Nouveau - Alphonse Mucha ...
youtube.com



Stunning Tattoos Inspired ...
tattoo.com



Alphonse Mucha Reproduc...
tattooow.com



alphonse mucha tattoo WI...
deviantart.com



Alphonse Mucha's "The M...
reddit.com



First seas on outline. Feath...
yelp.com



LOVECRAFT TATTOO
lovecrafttattoo.com



My Alphonse Mucha Tatto...
tumblr.com



Alphonse Mucha Art Nouveau ...
tumblr.com



art nouveau tattoo Alphon...
deviantart.com



35 Alphonse Mucha Inspir...
pinterest.fr



My "Amethyst" by Alphonse Mu...
pinterest.com



Age of Wands - Art and Tat...
ageofwands.tattoo

Collaborative platforms

There can be little doubt that sharing images via collaborative platforms such as Wikipedia has a positive impact. Articles with images have greater visibility than those without, and in return art images are seen beyond the traditional sphere of art history. Links to other encyclopaedia articles are now illustrated by the images associated with them precisely because they speak volumes on the subjects presented. This ability to condense and convey information so effectively explains why images now hold such a central position on the web and beyond. By leaving the confines of their institutions, they help to share and explain knowledge and, in doing so, support academics, artists and members of the general public.

A far cry from the highbrow and intimidating art history of some lecture theatres and museums, this collective appropriation of works of art, based on the freedom to use images of works in the public domain, has today become one of the basic conditions for "cultural democracy".

Recommendations

French Ministry of Culture

Put a national strategy in place

1. Encourage cultural institutions to make images of works in their collections as openly available as possible.
2. Monitor digital users to better understand their practices and expectations.

Support museums and cultural institutions in the implementation of digital strategies that integrate open content policies for images

1. Convene a working group to oversee the implementation of a national open content strategy. The group should be multidisciplinary and made up of users, French experts and international consultants, including members of staff from the ministry and its contractors, universities, curatorial staff from museums, open content managers from outside France, data specialists, legal advisors, economists, publishers, picture researchers and institutional picture library managers.
2. As part of this, support the Réunion des Musées Nationaux-Grand Palais in particular in establishing a new business model.
3. Clarify with the Réunion des Musées Nationaux-Grand Palais the question of authors rights applied to photographs of artworks.
4. Support the development of digital projects built in partnership with museums and universities or research centres.
5. Encourage cultural institutions to formalise a digital strategy as part of their *projet scientifique et culturel* (PSC).¹⁴⁹

Ensure that the organisations entrusted with the distribution and management of images meet the needs of visual arts professionals

1. Produce a charter based on best practice with regards to licencing art images.
2. Organise a consultation with rights management agencies and user representatives to better define which uses should be facilitated.
3. Stipulate that permission to operate on behalf of the ministry will only be granted to agencies who sign a charter recognising copyright exceptions for research, teaching and the promotion of cultural heritage.

¹⁴⁹ The *projet scientifique et culturel* (scientific and cultural programme) is a mandatory strategic policy in which museums must define their intellectual and conceptual objectives, chosen museographic approach and budgetary framework.

Museums and cultural institutions

Define an image policy in line with the values of the institution and its audiences

1. Establish an image policy that reflects the history of the institution, the nature of its collections and image library, and the needs of its audiences.
2. Do not apply copyright to works that are in the public domain.
3. Wherever possible, make images of public domain works freely available.
4. Build a digital identity for the institution and promote this through the website.
5. Be mindful that licences can be adopted progressively.¹⁵⁰
6. If making images available online implies technical costs, adopt a fair fee system that reflects the real costs involved.

Make the management of images as simple and straightforward as possible for museum staff

1. Adopt workflows and IT solutions that are as robust as possible and factored into permanent running costs.
2. Do not put restrictions in place unless you have the ability to monitor them.
3. Recruit staff with training in digital culture and digital tools.
4. Provide training opportunities and define new staff roles that will support the digital transformation, particularly for the dissemination of research and knowledge.
5. Inform, sensitise and involve all museum departments from the outset when implementing a new image policy.

Create a welcoming digital environment in which users are well-informed and encouraged to use images

1. Simplify the process for obtaining images and create user-centred interfaces which satisfy core needs and expectations.
2. Be as transparent as possible by providing clear and straightforward information on fees and licences. Avoid any ambiguities that might encourage negotiating and under-the-table arrangements.
3. Support users by explaining how images can be used. Provide new ways to engage with the collection.

¹⁵⁰ "Think big, start small, move fast", Michael Edson, Director of Web and New Media Strategy, Smithsonian.

Research centres and educational institutions

Provide better support to help researchers and teachers with their picture research

1. Make provision for licencing costs in the planning stages of any new project.
2. Do not let students and researchers foot the bill for image licences when their work is undertaken as part of a public service mission.
3. Ensure that academics are better informed on the provisions made by sectoral agreements with rights management agencies.
4. Inform and train legal departments on questions around image licencing.
5. For those institutions that have a publishing activity, consider recruiting a picture researcher.

Work with rights management agencies and picture libraries

1. When there is appropriate funding (through the Agence Nationale pour la Recherche, or the European Research Council for example) consider calling upon the iconographic and legal expertise of picture libraries to help source images.
2. Negotiate agreements with rights management agencies for specific projects or initiatives involving large volumes of images protected by copyright.

Annexes

Creative Commons Licences in 2016

Source: Farchy & De La Taille 2017, p.9

CC-BY (By Yourself): the user must "credit the author, include a link to the licence and indicate whether the work has been altered in any way". Under French law, this option equates more or less to the right to paternity (article L. 113-1). Since 2004 this is the default option.

CC-BY-SA (Share Alike): the user must credit the author and use the same licence for all derivatives (remixes, transformations, etc.). This is known as a *copyleft* licence.

CC-BY-NC (Non Commercial): the user must credit the author and is not permitted to use the work "commercially". In practice, the term "commercial" is ill-defined, due to a lack of consensus within the community.

CC-BY-ND (Non Derivative): the user must credit the author and is not permitted to make adaptations of the work (modifications, transformations).

CC-BY-NC-SA (Non Commercial/Share Alike): the user must credit the author and is not permitted to use the work commercially. These restrictions apply to all adaptations of the work (copyleft).

CC-BY-NC-ND (Non Commercial/Non Derivative): the user must credit the author and is not permitted to use the work commercially or to make adaptations.

CC0 (public domain): all restrictions are removed in as much as the legislation permits and the work is voluntarily and prematurely placed in the public domain. In those countries where moral rights are not well-established, users are not required to attribute the work.

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Katie Durand (katiedurand@hotmail.com) is the Images/Usages project manager. She has a background in art history and information science and, following several years as a project manager in art history publishing, she specialised in digital accessibility. Katie supports cultural organisations in the design and delivery of digital projects supporting access to cultural collections (National Gallery London, Mucha Foundation, Musée des Beaux-Arts Quimper). She is currently a project manager and accessibility specialist at BrailleNet where she is responsible, among other things, for publications.

Johanna Daniel (johanna.p.daniel@gmail.com / <http://johannadaniel.fr>) is a cultural and digital engineering consultant. She has a master's degree in digital technology applied to History from the École des Chartes. She worked in digital interpretation at the library of the Institut National d'Histoire de l'Art and has managed digital projects in departmental archives. Since 2016 she has been part of the Clara-Bis cooperative where she supports cultural institutions and research centres with digital heritage projects. She also teaches on these topics at the École du Louvre, the École des Chartes and the Université Paris IV Sorbonne.

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Jan Matsys, *A Merry Company*, Nationalmuseum Stockholm, N 2661.
Source: Nationalmuseum Stockholm/Wikimedia, public domain.

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Judith Bargues, Assistante d'édition, École du Louvre

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