

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, xxx
COM(2009) yyy final

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

Europeana - next steps

SEC(2009) zzz

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

Europeana - next steps

1. INTRODUCTION

Europeana – Europe's online library, museum and archive – opened in November 2008 as part of the Commission's digital libraries initiative, aiming to make Europe's cultural and scientific heritage accessible to all on the internet. The European Parliament¹ and the Council² have highlighted the importance of Europeana both as a showcase of the cultural heritage of the Member States on the internet and to provide access for everyone to that heritage. At the same time they have underlined the economic potential of making our cultural treasures available online as a source for creativity and new products and services in areas such as tourism and learning.

This document looks ahead to the next phase of development of Europeana and its orientation for the future. It sets out the main challenges for the coming years in relation to 1) enriching Europeana's content with both public domain and in copyright material of the highest quality and relevance to users, and 2) a sustainable financing and governance model. The objective is to ensure that Europeana and the underlying policies for digitisation, online accessibility and digital preservation give European culture a lasting visibility on the internet and turn our common and diverse heritage into an integral part of Europe's information infrastructure for the future.

In order to gather input on the best way to achieve this objective, the Commission is launching a consultation on the basis of a series of questions that can be found in the staff working paper accompanying this Communication. Interested parties are invited to submit their comments on any or all of the questions by 15 November 2009.

2. EUROPEANA: A STRATEGY TO BRING EUROPE'S CULTURAL HERITAGE ONLINE

2.1. The policy context

The i2010 digital libraries initiative was launched in September 2005. It built on earlier activities sponsored by the Commission to bring Europe's cultural heritage online and followed up on a letter (dated 28 April 2005) from six Heads of State and Government to the Presidents of the European Commission and the European Council, suggesting the creation of a European digital library.

For the general public Europeana is the most visible result of the initiative. It is a common point of access to an enormous and growing amount of content which has been digitised and made available online by cultural institutions in Member States. However, Europeana is just

¹ Parliament Resolution on 'i2010, towards a European digital library' 27.9.2007.

² Council Conclusions of 20 November 2008 on Europeana, OJ C 319, 13.12.2008, p.18.

the tip of the iceberg. Its creation and growth would not be possible without sustained efforts by the Member States on digitisation, online accessibility and digital preservation. The Commission has worked together with Member States to give these issues a place on the political agenda and to ensure that policies across Europe go in the same direction. In 2006 the Commission issued a Recommendation³ setting out a series of concrete measures to be taken, and it monitors how Member States implement the Recommendation and the related Council Conclusions, in collaboration with a Member States' Expert Group.

The Commission has also facilitated consensus building amongst stakeholders around practical solutions for key issues affecting the online accessibility of cultural and scientific material. This work was organised through the High Level Group on Digital Libraries, bringing together cultural institutions, representatives of rightholders and of technology firms and academics. It has led, amongst other things, to a model licence for the digitisation of out of print works and a collaborative project between publishers and scientists to measure the effects of open access to scientific publications. These policy activities are underpinned by extensive technical work co-financed under the *eContentplus* programme, the Competitiveness and Innovation programme and the 7th Framework programme for research and development.

Europeana contributes to the dissemination of the cultures of the Member States and brings the common elements to the fore by giving high visibility on the internet to our rich and diverse cultural heritage. It increases the relevance of the individual digitised collections by offering 'virtual permanent exhibitions' of works which are held around the continent.

The site also helps to find information in different formats (text, sound, audiovisual and image) and to compare the varying perspectives on our common European history and heritage in the different countries.

Furthermore Europeana stimulates and focuses further digitisation initiatives in the Member States by providing an overview of what material has already been digitised and highlighting the gaps in digitisation efforts across the Union.

The value of Europeana to users is that it makes it possible for them to find through a unique interface - and in their own mother-tongue - digitised cultural content from trusted cultural organisations across the European Union, and to use this content for work, leisure or studies.

2.2. State of play

Europeana now gives direct access through a multilingual interface to a unique supply of more than 4.6 million digitised books, newspapers, film clips, maps, photographs and documents from Europe's libraries, archives, museums and audiovisual archives. This number will grow rapidly over the coming years. The public interest in Europeana was vividly demonstrated at the launch in November 2008.

At present, more than 1.000 cultural institutions contribute content to Europeana (directly or through aggregators) and more than 150 institutions are participating in its partner network. This collaboration between different types of cultural institutions achieved through Europeana is unprecedented in its scale and potential. The expanding list of cultural institutions offering to make their content accessible through the service shows the strength of this potential and

³ Recommendation 2006/585/EC on digitisation and digital preservation , OJ L 236, 31.8.2006, p.28.

the commitment to the Europeana vision. Europeana has found a way to provide direct access to Europe's diverse cultural collections, while at the same time preserving the visibility of these institutions to the end-user. Collaboration could be extended to other initiatives around the globe, such as the World Digital Library.

An organisational structure is in place for the further development of Europeana. On a day-to-day basis the site is run by the Europeana office, hosted by the Dutch National Library. The office is expanding to cope with the tasks of maintaining and updating the prototype that was launched in 2008, and is working towards a major release of the site - Europeana 1.0 - in 2010.

In the coming years the site will gradually be improved with new functionalities and services and an enhancement of those that already exist. Key issues to be addressed are search features and interfaces. Particular attention will also be given to developing Web 2.0 services to create communities of interest, as well as improving the multilingual features. Input for improving the site has come from a recent survey among Europeana users, to which more than 3,000 persons replied, and which provided positive feedback on the service. While upgrading the site, Europeana will continue to function as a laboratory for testing new ideas and research results. Further promotion of Europeana is needed to make citizens more aware of the service.

3. MORE CONTENT FOR EUROPEANA

A condition for the successful further development of Europeana is that it should increase its collections. The Commission's policy target is to have **10 million objects** accessible through the site in 2010. The number should multiply in the years thereafter.

Feeding Europeana calls for sustained digitisation across Europe, and adding metadata to the digitised objects that comply with the highest standards. The Commission has therefore asked the Member States to step up their efforts in this regard, and to ensure that the digitised content can be easily made accessible through Europeana, including through the creation of national or thematic aggregators.⁴

3.1. Types of content

Overall, the contribution by the different Member States to Europeana is still unbalanced, in terms of both number of objects and types of material (see part 2 of the staff working document accompanying this Communication). The major efforts made by France to bring content into Europeana, with a presence of some 47% of all digitised objects, are very visible. Some other Member States contribute only a few objects. This situation will gradually balance itself out as more collections from across Europe are brought into Europeana.

In this first phase, some Member States (e.g. Poland, Hungary) have contributed mainly books to Europeana, whereas others (Finland, Luxembourg, Estonia) have concentrated their input around newspapers and magazines or (in the case of Romania) images from museums. This leads to the paradoxical situation where classics from Europe's literature are available through Europeana in a range of languages, but not in the language of origin. For example, you will find the works of Goethe in French, Polish and Hungarian, but not in German.

⁴ Communication 'Europe's cultural heritage at the click of a mouse', 11.8.2008.

This situation has prompted comments and questions from users. The selection of content to be digitised and brought into Europeana is determined by the Member States and their cultural institutions, in line with their cultural and/or information policies. Nevertheless, to meet the expectations of users as to what they will find in Europeana, a particular effort may be needed in relation to specific categories of material.

3.2. In-copyright content

One of the key challenges for Europeana is to include in-copyright material, so as to avoid a ‘20th century black hole’ — a situation in which much cultural material from before 1900 is accessible on the web, but very little material is available from the more recent past. This requires good collaboration between cultural institutions and rightholders, in full respect of copyright legislation. Such collaboration can take the form of agreements between national cultural institutions and rightholders or of links from *Europeana* to sites operated by rightholders.

A good example of the latter type of partnership is Gallica2, the site of the Bibliothèque nationale de France. It gives free access to public domain material and provides links to the in-copyright content of French publishers. The publishers decide how much of their content they want to show through Gallica2, and users can acquire the full works from their sites. A similar model could be considered for Europeana. The advantage for the users is that they not only get direct online access to public domain material, but they can also easily find in-copyright content they may want to acquire. The advantage for the publishers would be a higher visibility of their works to a Europe-wide audience.

In several European countries, for example in the Netherlands and Germany, rightholders and cultural institutions are exploring a different model that allows cultural institutions to digitise cultural material for a fee and make it accessible to the public. This concerns in particular books that are out-of-print but in-copyright, as well as older newspapers.

For the development of Europeana it is essential that such licences provide for the availability of the material across the EU. Indeed a French aggregator has had to withdraw photographs from Europeana, since it only had the right to disseminate the material on its own territory. There are other examples where cultural institutions have accepted licences that restrict dissemination of the material to IP-addresses within the national domain. Such arrangements are the result of financial considerations – a licence covering the whole of Europe may be more expensive – or they may be related to legal issues. They run the risk, however, of fragmenting Europe's digitised cultural heritage into national silos on the internet and raise questions as to the responsibility of publicly funded cultural institutions across the EU to grant equal access to the services they offer on the Internet to all EU citizens.

One of the areas where progress urgently needs to be made to facilitate digitisation that will benefit the content accessible through Europeana is the area of orphan works, i.e. works for which it is impossible or very difficult to trace the rightholders. In its 2006 Recommendation on digitisation and digital preservation, the Commission asked Member States to put mechanisms in place to deal with the orphan works problem. Since then, most Member States have made little progress. In the context of the High Level Group on digital libraries a memorandum of understanding was signed by the various stakeholders on diligent search guidelines for orphan works.

The 2008 Green Paper on Copyright in the Knowledge Economy⁵ followed this up with a series of questions, in particular on whether legislation is necessary at European level to address orphan works and on how to tackle the cross-border aspects involved. Following the outcome of the consultation, the Commission will prepare an impact assessment on the way to tackle the orphan work issue, which will explore a variety of approaches that could facilitate the digitisation and dissemination of orphan works.

Recently the issue of orphan works has attracted increasing attention as a result of the Google Book search settlement that concerns many of these works. The settlement was discussed at ministerial level in the Education, Youth and Culture Council of 12 May 2009 and in the Competitiveness Council of 28 May 2009. The Commission was asked to present an analysis of the effects of the settlement, and it is currently preparing this analysis.

In the context of digitisation of older works, there is a striking and highly relevant difference with the US in terms of copyright legislation. The term of copyright protection has been harmonised in Europe and in the US to 70 years after the death of the author, but US legislation includes a cut-off date of 1923 (works published before 1923 are in the public domain). Therefore much material of European origin from before 1923 can be digitised and made available in the US without a licence agreement, while it may not be available to European citizens through services such as Europeana.⁶ The practical consequence is wider online access to digital books in the US than in Europe, and solutions involving rightholders and cultural institutions should be considered in order to redress this situation. These solutions could include speeding up the creation of registries for orphan and out of print works - already underway through the ARROW project - or the pragmatic use of a cut-off date that would impose a lower threshold for diligent search for works from before a certain date.

3.3. Public domain content

Much of the material accessible in digital format through Europeana is in the public domain; this means it is not or no longer covered by copyright and can in principle be accessed and used by all. This material is an important source of re-use by citizens and companies alike and a driver of creativity in the internet age. For this reason, the Commission has underlined the need to keep "public domain works accessible after a format shift. In other words, works in the public domain should stay there once digitised and be made accessible through the internet".⁷

In practice this is not always the case. While some of the cultural institutions explicitly indicate that the material they bring into Europeana is in the public domain, others claim rights on the digitised copies and/or charge for downloads. A few institutions apply watermarks and, in one case, viewing the material in a reasonable size is subject to payment. The different practices reflect the wide range of approaches across the EU, which are sometimes dictated by increasing pressure on cultural institutions to raise direct income from the assets they hold. Requiring payment for digitised public domain works also reflects the

⁵ COM(2008) 466/3

⁶ In its recent announcement about the availability of Google Book Search for mobile phones, Google indicated that more than 1 million public domain books were available to US citizens through the service. In Europe, the press-release issued by Google mentioned half a million public domain books only.

⁷ Communication 'Europe's cultural heritage at the click of a mouse', p. 7

fact that digitisation has a cost. At the same time it seriously limits the cultural and economic potential of the material.

From a legal point of view the question is whether digitisation in itself creates new rights. Normally this would not be the case. However, the level of originality needed for the creation of copyright is not harmonised at European level, so the answer to the question may differ from one Member State to another.⁸ It may also vary for different types of digitisation (for example the scanning of books is not the same as costly 3D rendering of objects).

The issue of principle is whether it is acceptable to lock up public domain material that has been digitised with public money by public institutions instead of turning it into a pervasive asset for the information society. The latter approach is in line with the Community policy on the re-use of public sector information, as well as the OECD Ministerial Recommendation on Enhanced Access and More Effective Use of Public Sector Information.⁹ This issue is essential for the functioning of Europeana, since in its conditions of use the site follows the policies of the contributing institutions.

Similar issues arise when public institutions grant exclusive arrangements to private firms for the digitisation and exploitation of their unique public domain assets in exchange for material advantages. Such arrangements risk locking up public domain content, but in some cases they may be the only way to finance digitisation. This dilemma was expressed by the High Level Group on Digital Libraries in its report on public private partnerships for digitisation. The Group recommended that "public domain content in the analogue world should remain in the public domain in the digital environment. If restrictions to users' access and use are necessary in order to make the digital content available at all, these restrictions should only apply for a time-limited period."¹⁰

4. FINANCING AND GOVERNANCE ISSUES

In the Council Conclusions of 20 November 2008 on Europeana, the EU Ministers responsible for culture underlined the need to find a sustainable funding and governance model for the service. The Ministers invited the European Digital Library Foundation, the European Commission and Member States to work together in this regard and discussions have taken place in the context of the Member States' Expert Group on Digitisation and Digital Preservation. The present consultation opens up the debate to a broader set of stakeholders as to how to guarantee Europeana the necessary autonomy for the future.

For the further development of Europeana one can conceive of widely divergent models, ranging from a fully Community funded operation to a model in which the private sector plays a key role in running the service. The funding and governance model ultimately retained should take into consideration the vocation of Europeana to offer the widest possible access to cultural collections, the European scope and nature of the site, and also the prominent role of the cultural institutions that bring in their collections. Furthermore, it should take account of the fact that the costs for the Europeana office represent only a small fraction of the total

⁸ The originality criterion has, however, been harmonised for photographs, databases and computer software.

⁹ Seoul, 18 June 2008.

¹⁰ http://ec.europa.eu/information_society/activities/digital_libraries/doc/hleg/reports/ppp/ppp_final.pdf

investments by Member States and the European Union to make Europe's cultural heritage accessible on the internet.

4.1. Financing the development phase (2009-2013)

In its inception phase the European Commission has contributed financially to the creation of Europeana through the EDL-net project, co-funded under the *eContentplus* programme. The project, which had a budget of €1.3 million ended at the beginning of 2009.

For the period from 2009 to mid-2011 the development of Europeana will be co-funded with €6.2 million through the Europeana 1.0 project, selected under the *eContentplus* programme. In this phase, several Member States¹¹ as well as a few individual cultural institutions will contribute financially.

Until the end of 2013 the Commission can continue supporting the development phase of Europeana through the Competitiveness and Innovation Programme. There will be some further co-funding by the Member States and/or initial sponsoring by the private sector in this phase.

4.2. Financing in the medium term (2013 and beyond)

For the period beyond 2013 additional ways of financing Europeana should be considered, which strike the right balance between Community funding and other resources, and moving away from the present project-based financing. Complementary sources of financing could be provided through public private partnerships or through a more structural contribution by the Member States. Some site revenue can also be expected, but this will only cover a very modest share of the total costs for running the service. Making the end user pay for finding the content through Europeana and for the other functionalities of the site is not an option, since this would seriously jeopardise the take-up by the users and would run counter to the basic aim of the site.

Public private partnerships for Europeana

Public private partnerships for Europeana could take different shapes. A first model is *private sponsoring*, as Europeana develops further and attracts more users. Sponsoring could be given out of philanthropic considerations - a model which is widely used in the US. Sponsoring could also be given in exchange for a counterpart, for example advertising.

Practices in the Member States differ as to the acceptability of commercial communication on sites such as Europeana that offer a public service. This may also depend on the type of commercial communication, since the presence of a company logo in the background information is different from a banner that promotes a particular product.

Another potential source of income would be *payment for the links provided by Europeana* to the content of organisations (private and public) that generate income from this content. In other words, there could be a broker fee for the traffic generated to the sites with paid-for content. However, a public private partnership based on such links does not necessarily imply a financial relationship. The partnership between the Bibliothèque nationale de France and the

¹¹ France, Germany, the Netherlands, Spain, Italy, Finland, Ireland, Lithuania, Hungary

French publishers through Gallica 2 is an example where providing these links is seen as part of the public tasks of the site.

Drawing upon the *technological solutions and skills of private companies* for enhancing Europeana is another possible model to improve the features of the site. Private partners could be selected through a procurement process (in line with European rules on public procurement) or their input could be part of a sponsorship link as described above.

Further-reaching partnership models could be envisaged where the private sector would be directly involved in running Europeana and generating revenues to operate the site. Such models would need to take into account a series of constraints. Obviously, Europeana should continue to pursue the cultural and information policy objectives that are the reason for its existence. The full agreement of the cultural organisations contributing content would also be necessary, since they actually hold the digital material that is at the basis of the service. Lastly, such models would need to be set up in a way that avoids distortion of competition.

Public funding for Europeana

Sustained public sector financing would find its justification in the importance of Europeana as a vehicle of cultural policy, adding value to fragmented online cultural collections that currently often lack visibility by combining them through a multilingual common entry point. Furthermore, a relatively small public investment in Europeana could generate a huge spin-off of creative and economic activity in areas such as learning and tourism.

The public financing could come from a range of different sources. One option considered and rejected by the European Digital Library Foundation is a *financial contribution made by the cultural organisations* who contribute content. These organisations comprise national and European associations, aggregators and individual institutions from different sectors. The heterogeneity of this group is an obstacle to the design of a system of contributions that all concerned would consider as fair.

An increased contribution by the Member States could take concrete shape in the form of two basic models. The first approach would rely on the willingness of individual Member States to contribute, as several of them did in the start-up phase. This could be a quick and flexible option. At the same time, it would leave a wide area of insecurity for Europeana, as budget availability may vary from year to year. Moreover, this approach does not give the Member States a clear view of what is expected of them.

The second model would be based on a distribution key through which all Member States would contribute in accordance with their GDP. This model would express the responsibility of all the Member States for the development of Europeana, but the risk is that its overheads might turn out to be relatively high when it comes to formalising the model and the distribution key. In several cases, the contribution by a smaller Member State would actually be lower than the costs made for agreeing on its share.

A Community contribution after 2013 would find its justification in the European added-value of the site and its importance for demonstrating Europe's unity in all its cultural diversity. However, the present project funding, based on open calls for proposals, is not a sustainable basis for financial planning. Alternatives for the basic funding of Europeana need to be considered within the range of available policy instruments.

4.3. Governance issues

The European Digital Library Foundation, established on 8 November 2007 oversees the operations of Europeana. Founder members are European associations of libraries, archives, museums and audiovisual archives, as well as a number of major individual cultural institutions. To become members of the Foundation, organisations have to be or represent major content providers to Europeana, and be prepared to comply with the standards and policies of the site.

The financial support given to Europeana by several Member States has raised the issue of their influence on the governing bodies of the Foundation. The Commission and the Member States are not part of the formal governance structure of Europeana. Instead they are informed about progress and provide input to the executive committee of the Foundation through a 'funding and orientation group' which is part of the existing Member States' Expert group. This is in line with the idea that it should be the members, as the main contributors of content and in view of their knowledge and know-how, who are responsible for the operations of the site. In addition, the Commission currently has a contractual relationship with the Foundation through the grant agreements for projects in which the Foundation is involved.

Because of the expected inflow of new members, the EDL Foundation is preparing a change in the present governance structure. The follow-up to the debate on the medium-term orientation of Europeana, including its funding and the related issue of accountability, may require some further adjustments in the future.

5. CONCLUSION

In a short period of time Europeana has established itself as a reference point for European culture on the internet. It reflects the ambition of Europe's cultural institutions to make our common and diverse cultural heritage more widely accessible to all.

Further efforts that build on the achievements already made and a close collaboration involving all stakeholders are necessary in order to fulfil the promise of easy online access to books, paintings, maps, photographs, newspapers, film clips and audio from across Europe.

This paper has outlined the key challenges that will determine the further development of Europeana and has formulated a series of issues for debate to which stakeholders are invited to react.