TOWARDS BETTER SHARING OF CULTURAL HERITAGE
POLICY ISSUES AND ACTIONS

InDICEs Conference
Community and Digitisation: the new drivers of cultural heritage

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Background and Context

What challenges does cultural heritage face?

Climate change, health crises, armed conflicts… and copyright?

Five key actions

1. Protect the public domain from erosion
2. Reduce the term of copyright protection
3. Legally allow necessary activities of cultural heritage institutions
4. Shield cultural heritage institutions from liability
5. Ensure respect, equity, and inclusivity

1. Protect the public domain from erosion

- **Faithful reproductions of public domain materials must not be encumbered by technical, financial, legal or contractual restrictions.**
- **Offer a mechanism to challenge and contest an object's status as rightfully in the public domain**

2. Reduce the term of copyright protection

- Reduce the term of protection.
- Render protection dependent on registration (or other formality).
- Resist proposals to extend the terms of copyright any further than they currently are.
- Make it as easy as possible to determine works as orphaned.

3. Legally allow necessary activities of cultural heritage institutions

- Enable cultural heritage institutions to reproduce and make copyright protected heritage available for use and reuse by the public for noncommercial purposes.
- Permit all necessary activities that allow users to make use of heritage for non-commercial purposes and to use heritage to participate in public discourse.

4. Shield cultural heritage institutions from liability

- Remove liability for cultural heritage institutions acting in good faith.
- Create a safe harbor to allow cultural heritage institutions to legally carry out their activities

5. Ensure respect, equity, and inclusivity

- consider additional legal, ethical or contractual restrictions that may govern the conditions of access, use and reuse;
- acknowledge that access and reuse restrictions might be justified for ethical reasons;
- engage and liaise with source communities, and
- clearly communicate and educate users about the terms of use and reuse.

EXECUTIVE SUMMARY

For over two decades, **Creative Commons (CC)** has been active in the cultural sphere, promoting open sharing of information, ideas, and artifacts to build a more equitable, accessible, and innovative world. Guided by our vision to achieve better sharing of cultural heritage, CC is driving policy reform on a global scale.

By proposing **five concrete actions**, our objective is to **support policymakers** around the world in reforming policy — in particular copyright laws — within and across their respective jurisdictions **to achieve better sharing of cultural heritage in the public interest.** These actions offer a basis for a shared vision on better sharing, emphasizing that any policy framework is meant to serve multiple stakeholders in a balanced way: from creators to (re)users of cultural heritage through to Cultural Heritage Institutions, among many other actors.

Policy makers should:

Protect the Public Domain from Erosion

- **Adopt** clear and strong policy that unambiguously states that faithful reproductions of public domain materials must not be encumbered by technical, financial, legal or contractual restrictions.
- **Offer** a mechanism to challenge a copyright claim or contest an object's status as rightfully in the public domain.

Reduce the Term of Copyright Protection

- **Reduce** the term of protection.
- **Render** protection dependent on registration (or other formality).
- **Resist** proposals to extend the terms of copyright any further than they currently are.
- **Make** it as easy as possible to determine works as orphaned.

Shield Cultural Heritage Institutions from Liability

- **Remove liability** for cultural heritage institutions acting in good faith.
- **Where liability cannot be removed, limit sanctions** and remedies for cultural heritage institutions.
- **Create a safe harbor** to allow cultural heritage institutions to legally carry out their activities, including making collections available online to their users, and to encourage them to comply with notice and take down mechanisms in case of infringement claims brought by rightholders.

Legally Allow Necessary Activities of Cultural Heritage Institutions

- **Enable** cultural heritage institutions to reproduce and make copyright-protected heritage available for use and reuse by the public for non-commercial purposes.
- **Permit** all necessary activities that allow users to make use of heritage for non-commercial purposes and to use heritage to participate in public discourse.

Ensure Respect, Equity, Diversity and Inclusivity

- **consider**, in addition to the public domain status of a cultural element, additional legal, ethical or contractual restrictions, that may govern the conditions of access, use and reuse;
- **acknowledge** that access and reuse restrictions might be justified for ethical reasons;
- **engage** and liaise with source communities to determine a framework for digitization and making collections available; and
- **clearly communicate** and educate their users about the terms of use and reuse, and any conditions thus established to make sharing more equitable.