

Additional Text to the European Commission Consultation on Digital for Cultural Heritage

Brussels, 14th September 2020

1. Focus on COVID19 – the consultation text is revisiting digital projects of CHI and the EU platform EUROPEANA with a focus on the lack of physical access to cultural goods during lockdowns due to the COVID19 pandemic. Indirectly the text is advocating to increase and facilitate broad online access to cultural goods and protected works without mentioning the rights of authors. But not only museums, archives and public libraries suffered under the pandemic and the measures taken against its propagation, such as closure of museums, libraries and concert halls. Authors did not suffer any less and are still suffering even more. Being the weakest party in the cultural and creative sector, as individuals often not eligible for funding, their creative future is under threat. The consultation should not remain silent about the authors' needs due to the pandemic. Access to works in digital format must go hand in hand with licensing, such as Extended Collective Licensing and an adequate remuneration for authors. Creating visual works is not a hobby but a profession that has to be remunerated like any other work.
2. Use and re-use – in Question 14, re-use is mentioned as if it were no different from the original use on a CHI website. However, in order for a CHI to display works from a collection on its own website, or to facilitate the re-use by an unlimited number of users for non-commercial as well as commercial use by third parties, public CHIs generally provide uncontrolled access to digitized works in their collection. Visual

authors lose their source of income if their works are made accessible for any kind of re-use. EVA members regularly limit resolution of images to a degree that allows for images to be seen properly on the CHI website but that is insufficient to make any re-use, in particular, no commercial re-use. CHIs need to understand that they are seriously damaging authors of fine arts, photography, illustration and any author visual work without justification. Question 16's second bullet point shows that low resolution of images is understood as a quality issue. CMOs have to make low resolution a condition for licensing open display on CHI websites or else, authors lose all options to sell their images and make a living.

3. Metadata – for photography, artwork, illustration, graphic works, metadata are seldom used because they are not reliable sources of author information. Information contained in metadata of images depends on who is entering the information. Is it a picture agency, the photographer of an artwork, a publisher or the author of the image? Information is regularly incomplete. Metadata can be taken off an image and several users of images, for instance newspapers, are using software that deletes metadata. It may work for the picture agencies and image industries but not for the individual authors who are represented by CMOs.
4. Rebuild destroyed works – visual artists do not necessarily approve that their works, in the case that they are destroyed, are reconstructed. It is necessary to consult the authors and to take into account that a reconstruction is not the same and cannot be a replacement of the original work unless the author expressively provides his or her consent. Reconstructions are subject to moral rights of authors.
5. Equally, in fine arts, it has to be taken into account that a digitized collection is not an exhibition of the original works but the making available or communication to the public of a copy. An exhibition of original works is a completely different concept of reception based on the physical appearance of original works. The display of the digital copy on a monitor equalizes original works but is not able to replace the originals.

About EVA

European Visual Artists (EVA) represents the interests of authors' collective management societies for the visual arts. **28 European societies** are gathered under this roof as members or observers. They manage collectively authors' rights of close to **130 000 creators** of works of fine art, illustration, photography, design architecture and other visual works.

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