Open GLAM

Executive Summary

Andrea Wallace

Published on: Oct 19, 2020

DOI: 10.21428/74d826b1.b1ae638e

License: [Creative Commons Attribution 4.0 International License \(CC-BY 4.0\)](https://creativecommons.org/licenses/by/4.0/)

Executive Summary

Cultural heritage institutions face a number of obstacles to digitizing and making collections available online. Many are beyond their control. But there is one important area that these institutions *do* have control over: the access and reuse parameters applied to a breadth of media generated during the reproduction of public domain works.

Whether to claim intellectual property rights (IPR) or release the reproduction media of public domain works via open access parameters is a contentious topic among the GLAM sector (Galleries, Libraries, Archives, and Museums). Evidence shows GLAMs take a range of approaches to open access and encounter various obstacles that can hamper the release of cultural materials to the public domain. One of these obstacles is the lack of coordinated and sustainable support for GLAMs with open access ambitions.

Earlier this year, **Wikimedia Foundation and Creative Commons came together to assist the OpenGLAM initiative and bridge this gap.** The Wikimedia Foundation provided funding for an exploratory research paper on open access to cultural heritage. With the Wikimedia Foundation's support, Creative Commons is now leading an initiative to develop a *Declaration on Open Access to Cultural Heritage*, along with a public consultation process to refine and generate consensus on what the Declaration might achieve.

This resource is meant to kick off that process. It brings together valuable insight from practice with wider societal questions to reflect on the trajectory of the open GLAM movement to date and its future needs. The research to support this work sought to:

- To take stock of and reflect on open GLAM practices and the intellectual property rights (IPR) management of digital collections; and within this
 - Identify areas of uncertainty presenting barriers to open GLAM participation;
 - Identify new areas of focus emerging from open GLAM practice; and
- Produce an open access resource to inform the development of a Declaration on Open Access for Cultural Heritage.

The findings reveal:

- **Copyright law's conditions and cross-border uncertainties have a detrimental effect on open GLAM participation.** The various moving parts that

can make copyright so complicated have a detrimental effect on GLAMs' willingness or ability to take on risk and release public domain materials for public reuse. More copyright education, knowledge, and capacity-building is needed to support the cultural sector in this specific area, and in general.

- **GLAMs currently sit at various stages of digitization and open access adoption.** Four general categories are discernible across the sector:
 1. **Restricted.** Digital collections are subject to blanket IPR claims (*e.g.*, "All Rights Reserved") or opaque text-based policies prohibiting most reuse (*e.g.*, "research purposes only");
 2. **In transition.** Digital collections either permit reuse under licenses that release some rights but retain others (*e.g.*, CC BY-NC), or are released on a collection-by-collection basis under open-compliant statements (*e.g.*, Public Domain Mark, CC0, CC BY-SA);
 3. **Full adoption.** Digital collections are released under open-compliant statements as a matter of policy (*e.g.*, Public Domain Mark, CC0, CC BY, CC BY-SA); or
 4. **No collections online.** Due to technical, financial, legal, and/or access barriers associated with digital collections management.
- **Disparate and individualized approaches.** Those participating in digital initiatives take disparate and individualized approaches to IPR management of reproduction media. Many risks or factors can account for these differences, including: gaps in national law; unclear judicial or legislative guidance; a lack of legal expertise; risk-averse legal expertise; the lure of commercial licensing to generate revenue; pressures from funders to generate commercial revenue; the desire to protect collections and their contexts, educational or otherwise; concerns around ethics, privacy, or sensitivity of the materials; risks perceived by swiftly-changing digital environments; preserving relationships with donors or other GLAMs; and so on. Many of these factors have been well-documented. Some have been refuted by data and scholarship. Despite this, IPR is commonly used to defend against various risks posed by digitization, whether real or perceived.
- **Overbroad use of "open access."** The term "open access" is commonly used to describe any *access*-based initiative that makes collections free to view online or download for personal use, rather than *reuse* for any purpose. This conflates the status of the platform with the status of the materials. In general, there is demonstrated confusion around what "open" means in relation to GLAM, and to digital collections.

- **Inconsistent and inaccurate applications of rights statements.** Among these approaches are inconsistent and inaccurate applications of: copyright entitlements and licenses; open licenses and tools; contractual restrictions; labeling; permissions; and other rights statements, including Creative Commons. Such misapplications also extend to reproduction media of in-copyright works. Due to the layers of rights that can exist, these statements may be misapplied to digital media in violation of copyright law.
- **Open GLAM is the exception.** A relative minority of GLAMs release reproduction media under open-compliant licenses and tools for public reuse. A deeper dive into this group reveals further discrepancies between collections-specific and institution-wide policies and practices, even within a given institution. Some are (literally) one-off contributions of a single image. Others are monumental, releasing more than 2.8 million high-resolution files to the public domain.
- **Other rights and permissions require attention.** Aside from IPR, other legal foundations of open access remain underexplored, namely the human rights that might shape GLAM practices around digitization, IPR, access, and open access. These rights carry particular relevance for photographed individuals and for communities who have been wrongfully dispossessed of their cultural heritage during periods of violence, colonization, or forced occupation.
- **Power imbalances require attention.** A number of imbalances related to power, priority, interests, and resources can facilitate or impede participation in digitization and open access initiatives, which can skew the open GLAM landscape, representations of heritage, online dissemination, and consumption. Left unchecked, these imbalances will lead to sustained and (re)engrained dominant understandings of culture, heritage, access, and inclusion, and their transplantation in digital environments.
- **Emerging questions in open GLAM.** Copyright remains a cornerstone of open GLAM that requires educational support and GLAM capacity-building. Even so, new themes emerge both related to and complicated by copyright's absence (or presence) in reproduction media. Those most prevalent include: accessibility; decolonization and indigenization; intangible cultural heritage; GLAM-generated IPR; user-generated IPR; privacy and sensitivity; sustainability; and technical standards.
- **"Open GLAM" is underinclusive.** The term "open *GLAM*" is now underinclusive to describe the array of actors releasing open materials to the digital commons: educational institutions; local, regional, and national governments; media and commercial businesses; aggregators, portals, and platforms; community organizations and archives; academic and citizen science researchers; and individual

creators and users are *all* active participants in the open GLAM ecosystem, despite their diverse range of missions, objectives, publics, politics, and governance types.

- **“Open GLAM” describes a wider ecosystem.** Despite this, “open GLAM” remains useful for referring to the wider ecosystem of subject matter, initiatives, participants, and their networked potential; in other words, activities around cultural heritage producing digital media that can be made widely available for public reuse under open licenses, tools, or labels, despite the contributor or source.

With this in mind, this paper advances and provides arguments for the Declaration’s starting point. This includes:

- Embracing the premise that **no new rights should arise in non-original reproduction media of public domain cultural heritage;**
- Establishing consensus to **align “open” with international definitions allowing commercial use**, as well as the appropriate application of open licenses, tools, and labels;
- Introducing **greater nuance to open access** to invite, enable, and embrace newcomers who bring critical insights into what “open” means in the cultural heritage ecosystem;
- Providing adequate space within OpenGLAM to facilitate ongoing and collaborative improvements to **appropriate management of digital heritage** and **expand knowledge around emerging questions in open GLAM;**
- Recognizing the **need for a baseline document that redefines and reclaims open GLAM** as a shared philosophy, practice, conversation, and space framed broadly as a *Declaration on Open Access for Cultural Heritage*; and
- Moving into **a phase of critical open GLAM** that interrogates current systems, centers reflexive and locally-informed approaches, and strengthens the network to support GLAM staff and wider communities around good practice in digital heritage management and engagement.

To aid this work, the OpenGLAM initiative will build a wider network of practitioners and stakeholders to ensure digital cultural heritage and identities are shared responsibly, both within, but also separate from, established institutions. This paper aims to also inform that process. More importantly, it is meant to be a starting point, rather than a destination.

Continue to [*Note to the Reader*](#)