Copyright and open access for GLAMs in the age of COVID-19

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Copyright and open access for GLAMs in the age of COVID-19

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EXECUTIVE SUMMARY

Well before the COVID-19 pandemic, a plethora of memory institutions across Europe had been devoted to opening their collections and resources to audiences by harnessing digital platforms and tools, digitising their artefacts, books, archives, and other objects of cultural, scientific and historical significance. From early 2020 onwards, the outburst of the pandemic crisis stressed further the necessity to make cultural heritage open and digitally accessible. In this document, we map available copyright and open access options for cultural organisations, assess distribution policies and reveal data sharing trends in the post-pandemic era. Our overarching aim is to provide some insight into the current landscape, imminent needs and future challenges of the European GLAM sector to inform future policy.

Our review begins by defining cultural data 'openness', exposing the ambiguity and at times, misuse of the term across GLAMs. Easy and free access, metadata processing, permissible uses and purposes are identified as key criteria of open data policy. In turn, available legal instruments for releasing data are presented and explained, including the Public Domain Mark and the available options and rules of Creative Commons licenses.

Next, our analysis draws on the OpenGLAM survey (running since 2018 by McCarthy & Wallace) to map the sectoral landscape of sharing digital resources online. As it is observed, the level of digitisation and adoption of

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open access practices varies greatly among GLAMs located in Europe. Most organisations appear to have published 'some eligible data' as open data while they still apply non-open access policies for other resources and collections. This seems to indicate some hesitation towards an all-embracing open data policy at organisation level or broader barriers within and outside the sector. Regarding the release of digitised creative work that belongs to the Public Domain, most cultural organisations use the Public Domain Mark (34%), followed by the Creative Commons CC BY (25%) and CC BY-SA (21%) licences or national equivalents. Overall, we observe that more than half (52%) of GLAMs participating in the survey are Public Domain compliant; particularly libraries, whereas museums and archives appear comparatively more reluctant to waive all rights to their digitised assets. At the same time, it appears that only a relatively small percentage of collections and records held at European GLAMs have so far become available online as open access digital resources. Quite critically, Europeana has a pre-eminent position as the primary distribution channel that European GLAMs employ to distribute their open access materials.

This motivates us to explore further Europeana's statistics for participation, volume of materials and rights regimes. At the time of writing this document, Europeana recorded almost 57 million contributions by GLAMs, including images, 3D, texts, sound and video records. These have been provided by a total of 3,532 institutions, including all core GLAM categories and several peripheral organisations, such as universities. The 'champions' in terms of data volumes were the Netherlands (about 16% of all Europeana materials) and Germany (a. 11% of all materials), followed by

the UK, Spain, Sweden, and France. Regarding copyright and open access, we observe that a considerable amount of Europeana's digital materials (a. 21%) have been released under a Public Domain Mark, whereas another 13% is also free of copyrights under a CC0 licence. However, almost half of GLAMs digital resources distributed through the Europeana platform are still not openly accessible.

Overall, although a culture of sharing free and unrestricted digital data as a 'commons' fits well with the broader societal mission of GLAMs and important steps have been made in terms of providing an open-access culture in the sector, more efforts (and resources/infrastructure) are required so that openness can become the standard good sectoral practice. Openness has not yet crystallised as the standard for sectoral practice across European GLAMs. There is still great variance across the sector regarding digital copyright and open access policy, not only amongst different sub-sectors (e.g. libraries as compared to museums and archives) but also within the same sector. It appears that greater consensus is needed to ensure no new rights are claimed in the digital versions of Public Domain works whereas digital resources are shared responsibly, both within, but also separate from, established institutions, allowing for a greater socially-embedded engagement with GLAMs work, digitised records and objects.

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ACRONYMS AND ABBREVIATIONS

API	Application Programming Interface
CC	Creative Commons
CC0	Creative Commons Zero licence
CC BY	Creative Commons Attribution licence
CC BY-SA	Creative Commons Attribution - ShareAlike licence
CC BY-NC	Creative Commons Attribution - NonCommercial licence
CC BY-ND	Creative Commons Attribution - No derivatives licence
EU	European Union
IPR	Intellectual Property Rights
GLAM	Galleries, Libraries, Archives and Museums
PD	Public Domain

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1. Introduction

1.1 Purpose and scope

In the digital era, the question of access has emerged as a contentious topic across the Galleries, Libraries, Archives and Museums (GLAM) sector. As more and more memory institutions engage in digital activities that normally involve substantial labour and budget costs, such as collections digitisation, they are often faced with the dilemma of claiming intellectual property rights (IPR) to reproduction media and data or releasing digitised/digital artwork and imagery to the Public Domain (Wallace, 2020).

During the past years, well before the COVID-19 pandemic, several European memory institutions had devoted their digital work to expanding access to collections of cultural heritage, knowledge and resources, defending the principle of open access. To this end, the emergence and growth of the 'open GLAM' movement[1] served as catalyst to **promoting openness of digital collections as the standard for sectoral practice** (Sanderhoff, 2014). From early 2020 onwards, the outburst of the pandemic crisis highlighted even further the necessity to make cultural heritage open and digitally accessible to all (Europeana, 2022).

We hold that a culture of sharing free and unrestricted digital data as a 'commons' fits well with the broader societal mission of memory institutions as custodians of our cultural heritage while reinforcing GLAMs

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[1] 'Open GLAM' refers to an international movement led by various civil society groups and networks and shall not be conflated with 'OpenGLAM' which refers to a specific organisation.

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towards assuming an active role in society that extends beyond their walls, physical spaces, and material objects. Towards this end, a systematic study relevant to the resources in view is needed to develop custom directives for open GLAM data that take into account the particularities of heritage items and the inbuilt reluctance of memory institutions to set them free in public.

In this document, we focus on **the access and reuse parameters applied to digital cultural heritage collections and materials**, created by the GLAMs of Europe with the view to map available copyright and open access options for cultural organisations, assess distribution policies and reveal data sharing trends as these emerge in the post-pandemic era. By reviewing the paths, tools and obstacles of releasing GLAMs' digital, digitised and born digital work online, our overarching aim is to provide some insight into the imminent needs and future challenges of the sector that can inform European cultural policy.

Contribution to other deliverables

The present document is complementary to GLAMMONS deliverable D1.5, titled 'Pandemic-driven shifts of GLAMs finances and participatory practices: Digital policy and management trends in Europe'. In particular, Deliverable D1.5 explores digital strategies in the sector by following a much wider scope, including the harnessing of digital tools by memory institutions seeking cost-effective solutions and/or additional streams for value generation and the capacity of digital work to contribute to access and participation, before, during and after the COVID-19 pandemic.

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In this document (D1.7) we narrow down our questions regarding GLAMs' digital work, focusing on issues of copyright and open access. Going deeper into these issues is critical for informing our research into commons-oriented GLAMs. The conceptual framework of commons-oriented GLAMs that is presented in Deliverable D1.6 assigns great importance to the parameters of accessibility, access and IPR, as these determine openness and the free circulation of resources produced within a commons system. Thus, deliverable D1.7 together with D1.5 and D1.6 will contribute to set a solid ground for the follow-up fieldwork research and empirical work during the GLAMMONS project.

Structure of the document

The document is organised around three main sections. As we have seen already, the present section describes the purpose and scope of our analysis while also explaining the deliverable's contribution to the research performed under the GLAMMONS project.

The second section sets the general framework of our analysis by firstly defining the meaning of open data in the GLAM sector as compared to copyrighted data. It then moves on to present the rationale of openness, as indicated by the principles of Europeana and OpenGLAM. In this section we also explore legal tools for releasing cultural digital data, such as creative commons licences, and available distribution channels, such as aggregators.

In the third section of the document, we draw on empirical data to observe the current landscape of copyright and open access across the GLAMs of

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Europe. In particular, we present and comment on the findings of the OpenGLAM survey (2018 - present), which provide some interesting insight into the digital policy and practice of cultural institutions that have published open data. We also review the latest statistical information provided by Europeana, as it represents a principal digital infrastructure for the European sector. These empirical findings lead to a discussion about current copyright and open access trends as well as implications for the future.

DEFINING 'OPENNESS' IN THE GLAM SECTOR

Since the late 2000s, the digital commons culture and principles have entered the GLAM sector, promoting **'a new museum culture'** (Sanderhoff 2014: 34). The **open GLAM movement** supported the digitisation of cultural heritage and its management in a way that allows public access and reuse by audiences across the globe. Sanderhoff (2014) links this movement to the broader 'wikinomics' paradigm that flourished on the Internet, forwarding the principles of openness, peering, sharing, and acting globally for doing business (Tapscott and Williams, 2008). This new internet culture of digital commons has permeated the institutional culture of GLAMs (Sanderhoff, 2014), at least nominally.

However, about two decades later, there still seems to exist some misunderstanding of 'open access' in the sector. As Wallace (2020) observes, **the term is often misused to describe websites and platforms that allow users to view collections online and download for personal use, but**

prohibiting any type of reuse, adaptation and creative remix. As openness goes well deep into these processes of reuse, reproduction, and redistribution, we need to define its meaning and boundaries in terms of both law and professional ethics. In legal terms, we need to specify what is or is not permitted by copyright holders of cultural materials regarding use, distribution, recreation and so on, what options are available for GLAMs and what is considered good practice in the sector. Moreover, it is important to consider the meaning of 'openness' more broadly in terms of participatory practice and professional ethics in GLAMs, to better understand the purpose of advocating for public access to cultural heritage that 'shall belong to all'. In the following sections, we do an initial mapping of IPR and access issues and options, touching upon technical aspects and principles of good practice.

What are open data?

According to the OpenGLAM working group, **digital content and data can be defined as 'open'** only when: '**anyone is free to use, reuse, and redistribute it – subject only, at most, to the requirement to give credit to the author and/or making any resulting work available under the same terms as the original work.**'[2]

Similarly the Open Society Institute (2002), focusing on literary works and scientific publications, identifies open access with free availability on the Internet, allowing all users to read, download, copy, distribute, or repurpose

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[2] This is in line with the 'open definition' available at http://opendefinition.org/ (last access 18 July 2023).

(e.g. insert as data to software) 'without financial, legal, or technical barriers' provided that they acknowledge and cite authors.

What are copyrighted data?

Data related to works of art, cultural heritage, and their digitised versions (e.g. images, electronic publications) are often subject to restrictions regarding use, reuse and redistribution through copyrights. Copyright ensures that creators, including authors, composers, film makers or other artists, **receive recognition, protection, and royalties for their work**[3]. Rights granted to creators normally take the form of exclusive rights. The 'all rights reserved' status authorises authors and artists to **prohibit copying, digital distribution, or public access** to their works. They also have moral rights including the right to claim authorship of the work and the right to object to any action that they consider derogatory to the creations.

According to EU legislation, the rights of an author of a literary or artistic work **remain in effect throughout their life and 70 years after their death**, irrespective of the work's date of publication (DIRECTIVE 2006/116/EC, article 1).

Intellectual property rights for GLAMs' digitised assets.

When GLAMs are users of copyrighted assets which they do not own, the creator or author holds both economic and moral rights and it is their choice to decide whether they would grant a licence allowing a cultural

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[3] See https://digital-strategy.ec.europa.eu/en/policies/copyright (last access 20 July 2023).

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institution to make and distribute digital copies of their creations (Bandle et al., 2020). GLAMs can also gain IPR of artistic works, if the artist or rights holder chooses to assign them via contract. Some cultural institutions are also likely to have 'orphan' works in their collections, meaning that although they are copyright protected, the creator or rights holder remain unknown and thus obtaining permission for publishing these works online can be particularly difficult (Bandle et al., 2020).

Although all the above scenarios may hold, typically, memory institutions normally have a plethora of artwork and resources that are no longer protected by copyright protection (IPR have expired; see also Section 2.4). For most recent works that retain IPR, digitised surrogates and related images are most commonly subject to moral rights and photographic rights (Sanderhoff, 2014: 39):

- As mentioned earlier, **moral rights** are the rights of the creator of the original work of art. Moral rights are different from economic rights as they concern the right of attribution and integrity of the work, regardless of ownership or possession.
- **Photographic rights** are the rights of the photographic record of the work of art. These can be owned by the cultural institution (e.g. the museum or the library that holds the original) or a photographer. In the second case, the cultural institution needs to credit and pay a fee to the photographer when using their images.

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Since moral rights remain in effect for several years after the creator's death (as mentioned, usually 70 years[4]), **much of Europe's intellectual and artistic work** (e.g. literary works, paintings, films) **produced during most of the 20th century are still subject to moral rights**. For example, 'Guernica' is owned by the Spanish Government, and it is exhibited in the national museum for contemporary art, Museo Reina Sofía in Madrid.

However, since Picasso died in 1937, **all digital images depicting his works remain intellectual property**. As we read on the website of another museum that holds some of his paintings, Musee Picasso in Paris, 'to reproduce and/or depict works by Pablo Picasso, you will need the prior written consent of the Picasso Administration, the company representing the artist's rights holders'[5]. This poses restrictions to any commercial or non-commercial use, dissemination, and adaptation of Picasso's digital imagery. Consequently, as users, we can see a digital image of Guernica on the official website of Museo Reina Sofía, zoom in and out of the picture or even download it on our computers for personal use, but anything beyond that would require formal permission (figure 1). As Wallace (2020) underlines, we should not conflate the status of a website or platform with that of the materials, as **viewing collections online and downloading for personal use is not regarded as 'open access'** since any type of reuse is prohibited.

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[4] Note that in the US applies a different legal canon, whereby copyrights could remain in effect 75 years after the work's publication date or even longer (the case of Mickey Mouse's extension of copyright is quite famous).

[5] https://www.museepicassoparis.fr/en/image-rights (last access 20 July 2023).
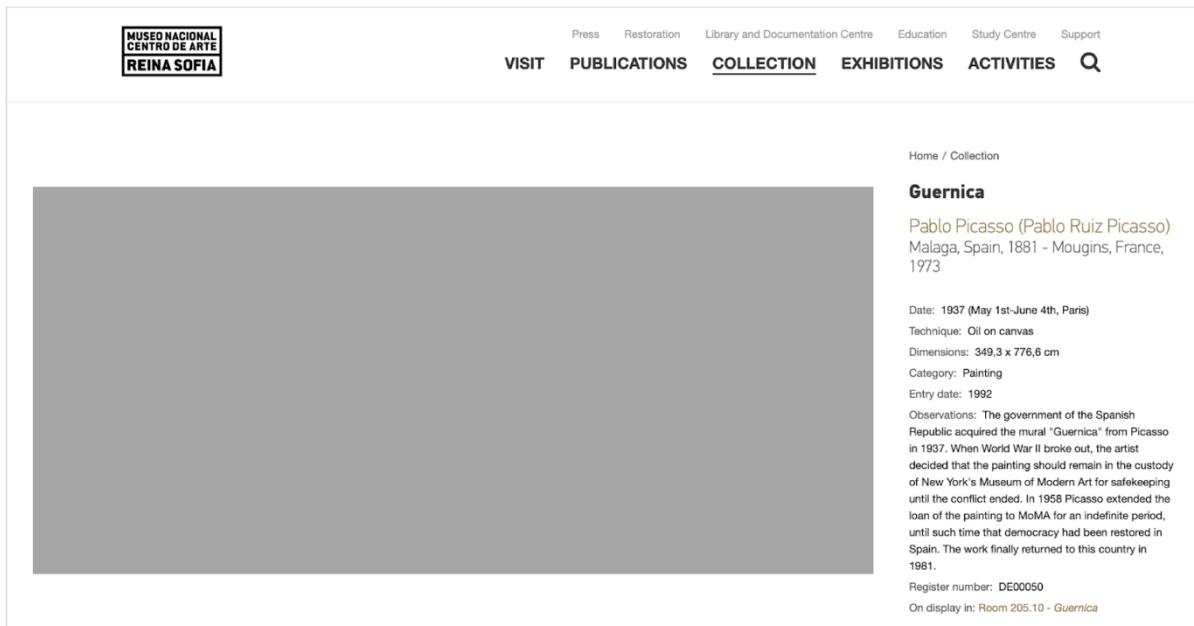
Figure 1 – Museo Reina Sofía website displays a digital image of (copyright-protected) Guernica, for viewing only. Here, it has been replaced with a grey box to avoid a rights violation (source: www.museoreinasofia.es)[6] .

Works in the Public Domain

Having said that, we need to consider what applies to works of art and their digital imagery that was produced *before* the 20th century. In practice, all creative work released up until the 19th century is today *out of copyright and has entered the Public Domain*. **The Public Domain is a pool of shared resources that is made up from all creative works that are not subject to any intellectual property rights** (European Commission, 2020). It includes works that have been created before the advent of copyright, works where copyrights have expired[7], as well as works that have been deliberately placed in the Public Domain by their creators.

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[6] https://www.museoreinasofia.es/en/collection/artwork/guernica (last access 20 July 2023).

[7] As mentioned earlier, in the EU this is 70 years after the author's death, irrespective of the work's time of publication (EU, 2006; article 1).

Public Domain information and resources, such as pictures, audiovisual materials and books **can be used by anyone freely without restrictions and without requiring a permission**, 'subject in some European countries to the author's perpetual moral rights' (Europeana, 2010). According to Europeana's Public Domain Charter (2010), an inspiring but still not widely applicable directive in the GLAMs of Europe, GLAMs are not only responsible for preserving Public Domain works but also for making these available to the public.

Europeana's Public Domain Charter

Europeana's Public Domain Charter, published in 2010, set three core principles to defend the resources in the Public Domain and guide GLAMs' digitisation policies. These have been articulated as follows[8]:

- Principle 1: Copyright secures creators' monopoly control over their works only for a limited but appropriate period of time. After this period is over, all works enter the Public Domain automatically.

- Principle 2: Works that have entered the Public Domain *need to stay there*. Exclusive rights cannot be claimed or re-established and **works that are digitised remain in the Public Domain**. Thus, **there should**

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[8] Full text available at https://www.europeana.eu/en/rights/public-domain-charter (last access 18 July 2023).

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be no contractual measures that limit access to reproductions of such works in the digital realm.

- Principle 3: When a work enters the Public Domain there are no restrictions to use, re-use, copying or adaptations of the work; **anyone having a digital copy should be free to reproduce it with no limitations by technical and or contractual measures**.

Legal instruments for releasing open access data.

Since we have established what is considered open access data it is also useful to see what legal tools are available to GLAMs should they wish to release data to the Public Domain. There are two main options for publishing cultural data completely free of copyright: the Public Domain Mark and Creative Commons Zero licence (CC0).

The Public Domain Mark

The Public Domain Mark (figure 2) has been established in the GLAM sector as a standard way of communicating that a creative work released by a cultural institution, such as a painting, a book or a photograph (and their digital counterparts) **are not restricted by copyright and can be openly and freely used by anyone without permission**. This label is the most appropriate and recommended for any work (and all its related data) that is no longer restricted by copyright and has been released to the Public Domain[9].

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[9] https://creativecommons.org/share-your-work/public-domain/pdm/ (last access 27 July 2023)

Figure 2 – The Public Domain Mark (source: www.creativecommons.org)

In practice, any digital resource and its metadata that have been published online under a public domain mark can be used, reproduced, modified, distributed for any purpose (even commercial) without any limitation or the user's responsibility to ascribe remark on the original creator/artist, publisher or source (e.g. the museum or library).

The CC0 licence

Figure 3 – The CC Zero licence tag (source: www.creativecommons.org)

The Creative Commons Zero licence (CC0) is the equivalent of the Public Domain Mark for creative work and resources that do not belong to the Public Domain (figure 3). It is normally used by artists and creators that wish to dedicate their work to the Public Domain thus waiving all of their

rights to the work under copyright law[10]. For GLAMs it is often used for waiving rights to metadata related to digitised records and resources. For example, all metadata submitted to Europeana must be provided as CC0.

Similar to the Public Domain Mark, any digital data released under a CC0 licence can be used, reproduced, modified, distributed for any purpose (even commercial) without any limitation, need for permission or for crediting the original creator or source.

Claiming new rights to digitised data

Based on the aforementioned, if GLAMs' collections are in the public domain, no moral or photographic rights restrictions apply, thus **GLAMs are not prevented legally from providing open/free access of their images to the public**. Yet, open access does not always apply for digitised works distributed by cultural organisations even in cases where the originals belong to the Public Domain, as new restrictions are often introduced to their digitised versions and metadata.

Restricting access to their digital resources has some pros and cons for GLAMs (Sandehoff, 2014: 40-41). On the positive side, restrictions allow GLAMs to **retain control over the use of digital images** of artworks, thus preventing misuse (e.g. commercial or political appropriations). When fees apply, GLAMs can also **reimburse part of digitisation costs**; although in

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[10] https://creativecommons.org/publicdomain/zero/1.0/ (last access 27 July 2023)

practice, this process involves time-consuming administrative work while sales revenues from copyrighted images are said to remain minor (Sanderhoff, 2014). On the negative side, restrictions to access undermine GLAMs' potential to **serve as enablers in learning and creative engagement in cultural heritage**, **push users away from a legitimate source of information** (such as official GLAMs websites) and **compromise their profile as public institutions**.
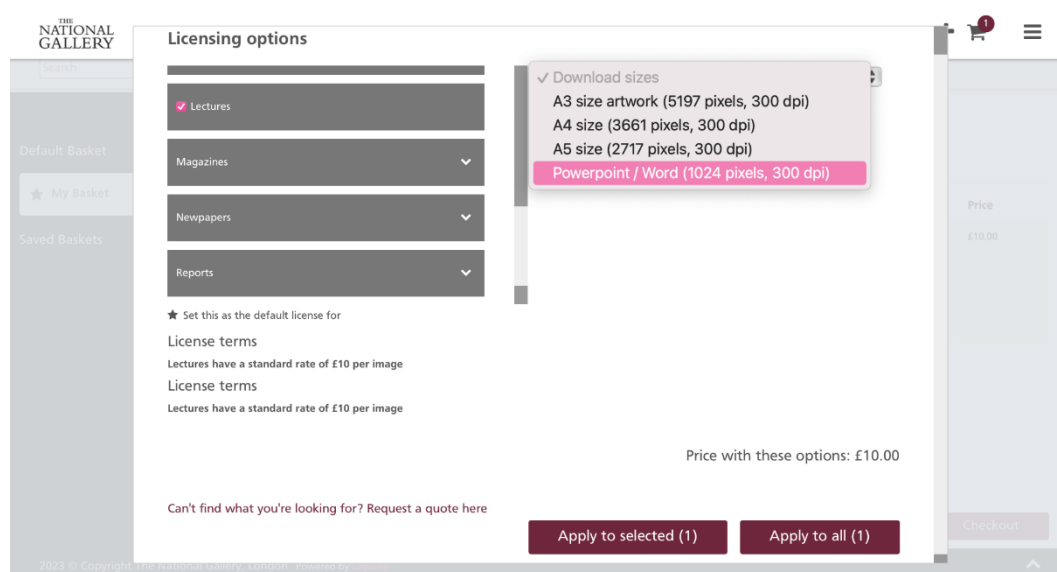
Figure 4 – Similar to other UK national museums, the National Gallery charges fees for downloading and reproducing high-resolution images, even of artwork that belongs to the Public Domain (source: https://www.nationalgalleryimages.co.uk).

For GLAMs that have not adopted an open access policy, it is quite common to create new copyright for high-resolution images of collection objects and artwork that has been translated digitally through photography, scanning, 3D models and related processing, requiring permission and licensing - **often at a considerable cost for the user**. For example, the National Gallery in London allows users to download digitised images of painting only in low resolution and for personal use.

Reproducing these images in better quality for any commercial or non-commercial purpose - **even for scientific publications or educational use necessitates paying considerable licensing fees**. It is quite common for charging fees to vary according to the size and purpose of materials, reaching prices of hundreds or even thousands of pounds. As an example, Figure 4 shows our options for purchasing a digital image of a painting from the National Gallery website, intended for an academic lecture (at a standard rate of £10 excluding VAT).

Access restrictions become even more problematic, when digitisation activities have been funded by public money or European funds, as is the case of the National Broadcaster of Greece (ERT) Archive, a private legal entity, operating as a limited company, funded through a mandatory tax in Greece. In 2007, ERT began the digitisation of its archive with funds provided by the National Strategic Reference Framework 2007-2013. The digital output, with patented file types and video, text and picture formats, still falls under ERT's exclusive ownership gating the adaptation and redistribution of the archival material under a hefty price and subject to opaque bureaucratic procedures (Kostakis & Giotitsas, 2013)[11].

Some rights reserved: The Creative Commons open licence system.

Copyrights are exercised through licensing mechanisms. Creative commons open licence system emerged as an alternative to traditional 'all

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[11] https://archive.ert.gr/perigrafi-ergou/ (last access 18 July 2023).

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rights reserved' copyright regimes, providing six types of attribution licences that may reserve 'some rights' over the reproduction and recreation of creative work while always providing credit to the original creation. These are, from the least to the most restrictive[12]:

- The **CC BY** licence: it allows everyone to distribute, recreate and adapt the work for any purpose as long as they credit the original creation;

- The **CC BY-SA (share alike)** licence: it gives permission to everyone building on the original work, even for commercial purposes, but similarly to copyleft and open source licences, new creations should be licenced under similar terms;

- The **CC BY-ND (NoDerivs)** licence: it allows all commercial or non-commercial uses, but prohibits any alterations, adaptations or remixes to the original work;

- The **CC BY-NC (NonCommercial)** licence: it permits remixes and adaptations but only for non-commercial purposes;

- The **CC BY-NC-SA (NonCommercial – Share Alike)** licence: it permits remixes and adaptations but only for non-commercial purposes, provided that derivative work is licensed under similar terms;

- The **CC BY-NC-ND (NonCommercial – NoDerivs)** licence: it permits downloading and sharing for non-commercial purposes and prohibits adaptations whatsoever.

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[12] https://creativecommons.org/licenses/?lang=en (last access 18 July 2023).

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In principle, **Creative Commons licences should be applied to copyrighted works and not to public domain works of GLAMs**, because as we mentioned above public domain works shall bear no copyright licence (can be released under a Public Domain Mark). Still, licences such as the Creative Commons can promote ways of sharing value and unobstructed cooperation especially between the interested communities (Bauwens et al., 2019).

Interestingly, at the moment of her writing, Sanderhoff (2014: 82) reported that there was inconsistency in the use of open licences in the GLAM sector, as there was 'no established practice on how cultural institutions handle licensing of digitised works in the public domain'. In section 3 of this document, where we analyse current data of European GLAMs, we also observe considerable disparities to rights statements and open access policy.

OpenGLAM Declaration on Open Access to Cultural Heritage

The OpenGLAM initiative, led by Creative Commons with the support of the Wikimedia Foundation published a *Declaration on Open Access to Cultural Heritage,* composed in 2013 a set of principles to 'outline the shared values behind free and open access to digital cultural heritage'[13]. These principles are intended to guide GLAMs digital policy and are described as follows[14]:

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[13] https://medium.com/open-glam/openglam-principles-ways-forward-to-open-access-for-cultural-heritage-81ebb3559b4 (last access 18 July 2023).
[14] https://openglam.org/principles/ (last access 19 July 2023).

- **Principle 1:** Dedicate digital information about the artefacts to the public domain using a proper legal tool, such as the <u>Creative Commons Zero Waiver</u> (CC0).

As we explained in section 2.5.2, the CC0 secures a 'no copyright' regime, whereby the creator releases their work to the Public Domain by waiving all their rights. Users are allowed to copy, distribute, use and modify the work for any purpose without asking for a formal permission. **Removing all restrictions can help GLAMs maximise reuse of data and make resources more discoverable.**

- **Principle 2:** Do not add new rights to the digital representations of works for which copyright has expired.

This principle aligns with Europeana's principles of keeping Public Domain works to the Public Domain (see Section 2.4.1). To defend the integrity of the Public Domain and maximise reuse of content, GLAMs should apply a proper legal tool, such as the Creative Commons Public Domain Mark (see Section 2.5.1) to all digital images and representations of non-copyright protected artwork.

- **Principle 3:** Make an explicit statement of your wishes regarding the reuse and repurposing of your data upon its publication.

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As exemplified by the statement of the British Library (see Table 1), declaration texts may contain requests on behalf of the organisation for crediting the creator and the original source, preserving public domain marks, supporting the institution (by giving something back, especially for commercial reproductions) and respecting cultural expression. **These requirements are considered allowable since they do not diminish the open status of digital resources**.

- **Principle 4**: Publish data in open file formats that are machine readable so that data can be easily extracted by computer programmes.

Releasing data in open file formats using protocols, such as OAI-PMH (Open Archives Initiative Protocol for Metadata Harvesting) or Axiell API, secures easy access and reuse by those interested.

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The British Library asks that anyone reusing digital images from this collection applies the following principles:

- Please respect the creators – ensure traditional cultural expressions and all ethical concerns in the use of the material are considered, and any information relating to the creator is clear and accurate. Please note, any adaptations made to an image should not be attributed to the original creator and should not be derogatory to the originating cultures or communities.

- Please credit the source of the material – providing a link back to the image on the British Library's website will encourage others to explore and use the collections.

- Please share knowledge where possible – please annotate, tag and share derivative works with others as well as the Library wherever possible.

- Support the Public Domain – users of public domain works are asked to support the efforts of the Library to care for, preserve, digitise and make public domain works available. This support could include monetary contributions or work in kind, particularly when the work is being used for commercial or other for-profit purposes.

- Please preserve all public domain marks and notices attached to the works – this will notify other users that the images are free from copyright restrictions and encourage greater use of the collection.

Table 1 – Example of good practice: British Library statement regarding the reuse of open-access images, (source: British Library)[15]

- **Principle 5:** Pursue audiences' engagement in novel ways on the web

Opportunities for engagement may vary from providing clear information and supporting users to get the most out of the data to inviting users to enrich and improve digital content through crowdsourcing and co-creation/co-curation applications.

Open data platforms and aggregators for sharing cultural data.

Open Data Platforms are websites that bring together open digital data of artistic work and imagery from multiple memory institutions in the sector, such as Public Domain and CC0 resources and tools. Europeana, Flickr Commons and Wikimedia Commons were amongst the first initiatives that served as online libraries and aggregators of cultural metadata from GLAMs across Europe and beyond. Today, additional country-specific or thematic open data platforms have also been developed, such as Art UK in Britain, Deutsche Digitale Bibliothek and Coding Da Vinci in Germany, Paris Musées in France, Museums Public Portal in Estonia and many others.

Aggregators are useful channels for GLAMs disseminating cultural data and promoting content by reaching out to wider audiences (e.g. as compared to the organisation's own website). However, aggregators usually integrate and publish data that is already digitised by GLAMs.

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Digitising cultural data through PPPs: Access ramifications

Digitising collections and materials is an expensive and time-consuming process requiring resources, knowledge and manpower. During the past years, **Public-Private Partnerships (PPP), involving the collaboration of public-sector memory organisations with private companies**, have emerged in the European GLAM sector as a vital option for financing large-scale digitisation projects. Normally in these partnerships, **a commercial content aggregator funds collections' digitisation and receives in return privileged access to digitised materials**. This often compromises the principle of openness and access to cultural heritage even for Public Domain works, as it introduces restrictions to their use, sharing and engagement by the public. According to Europeana, 'organisations are claiming exclusive rights in digitised versions of Public Domain works and are entering into exclusive relationships with commercial partners that hinder free access'[16].

The example of *Google Arts & Culture* offers an illustrative case. Led by the American multinational technology company, the Google Art Project (currently 'Google Arts and Culture') was launched in the beginning of the 2010s as **a non-commercial initiative with the view to mass-digitise GLAM collections and make them publicly accessible through a dedicated website platform**[17]. Google invited cultural institutions to join as partner organisations and share their content in order to digitise their collections,

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[16] https://www.europeana.eu/en/rights/public-domain-charter (last access 18 July 2023)
[17] See https://artsandculture.google.com/ (last access 18 July 2023)

manage them efficiently and distribute them through Google's website and mobile application. Today, the initiative has attracted more than 2,000 partner institutions around the globe, from big national museums to smaller municipal cultural organisations, city galleries and other state-funded entities, a vast number of which are located in Europe (figure 5).
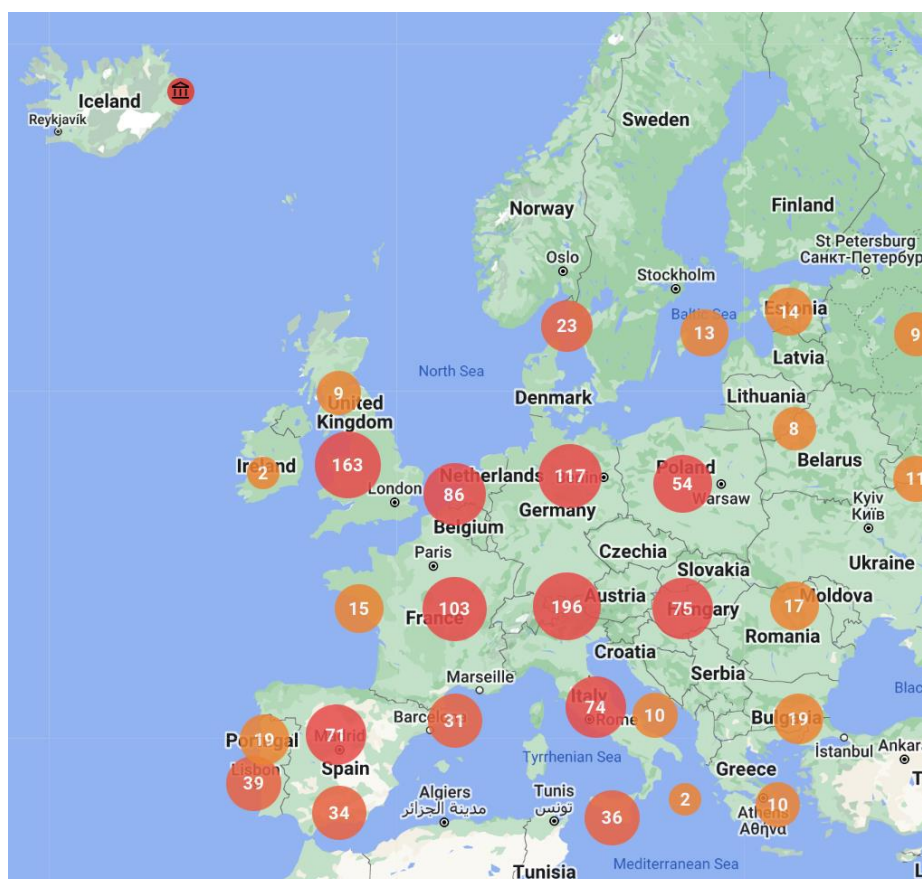
Figure 5 - A map of GLAMs in Europe participating in Google Arts & Culture as partner institutions (source: https://artsandculture.google.com/partner?tab=map last access 18 July 2023).

Admittedly, the Google Arts project provided the opportunity to many state-subsidised GLAMs with limited resources, capacity, and manpower to enter the digital realm and benefit from the tools and a mass-distribution platform that would be impossible to develop independently. **The platform features only copyright free, and copyright cleared content and the ownership**

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of artworks' imagery remains with partnering GLAMs. However, digitised materials can be accessed only through Google. This raises some ethical concerns given that the Arts & Culture project allowed Google to conveniently create 'a walled garden' by determining access and channel activity through the company's own tools and applications (Sanderhoff, 2014: 70). Thus, although non-commercial per se, Google Arts assigns excessive power to a private company over how users will engage with public content online.

Defining 'openness' in the GLAM sector: Setting the boundaries

Based on our analysis so far, we can now summarise the key elements that make up 'openness' in the sector. To help us do so, we adapt the requirements for open works as set by the Open Knowledge Foundation[18] to compile our list of 'openness' criteria as these apply to GLAMs digital work.

Status/terms of licence	Public domain/Open licence
Access	Downloadable via the Internet
Metadata	Machine readable and modifiable
Format	Open format, can be used with free and open-source software
Cost	Free (no charges/fees)
Applications	Use, redistribution, creation of derivatives, distribution of derivatives, remixes, compilations, separations
Purpose	Any purpose (commercial/non-commercial)
Acceptable rules	Attribution, integrity, share alike

Table 2 - Openness criteria for GLAMs digital work

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[18] http://opendefinition.org/od/2.1/en/ (last access 20 July 2023).

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As summarised in Table 2, the 'openness logic' in the digital realm presupposes some 'necessary conditions' that should hold simultaneously so that GLAMs data and material can be considered open. These include data **access** (easy and downloadable via the web for free) and **processing**, such as publication in formats that can be handled by a common computer and machine-readable metadata that can be input to free and open-source software. This implies that GLAMs that apply fees for downloading and reproduction to their digital resources, do not comply with 'open data' policy. Similarly, platforms such as the Google Arts Project do neither provide open data since their accessing and processing options are restricted (e.g. only through Google's infrastructure).

Another key feature of openness relates to **permissible uses and purposes**. These are directly dependent on rights statements and licence terms upon release. We have established already that open data can be released with a public domain mark (for works that belong to the public domain) or can be published under an open licence (for most recent works or resources developed by GLAMs). The 'canon' is to keep limitations to the minimum in order to allow and encourage **use, redistribution, adaptation and re-creation of works of art or their imagery and the distribution of any type of derivatives, for any purpose,** freely and without paying any fees or royalties.

It shall be noted that some rules can still be prescribed by GLAMs when publishing their digital data online. These can be done formally by claiming

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new rights to the digitised version of the works (commonly not regarded as best practice) through CC licences (e.g. CC BY, or CC BY-SA) or more flexibly, through a declaration text (as in the case of the British Library that we saw earlier in this document). Overall, requests related to attribution of contributors, maintaining the integrity of the original work (e.g. by allowing changes but making changes and derivatives distinguishable) and share alike requirements (derivative work shall also be published under an open licence) can be regarded as acceptable, since they do not limit, make uncertain, or otherwise diminish the permissions' granted by an open licence (Open Knowledge Foundation, ibid).

THE CURRENT LANDSCAPE OF COPYRIGHT AND OPEN ACCESS IN GLAMS

Empirical evidence of open access policies in GLAMs

As it was observed shortly before the pandemic outburst, the level of digitisation and adoption of open access practices for digital resources in the GLAM sector varied greatly among memory institutions located in Europe and beyond (Wallace, 2020). For Wallace (2020:10) digital policies of related institutions shortly before the onset of the COVID 19 pandemic, fell into four main categories:

a. GLAMs that had **no collections online**, due to technical, financial, legal or other barriers to managing digital collections;

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b. GLAMs that provided **restricted access** to online collections and resources that remained subject to IPR claims ('all rights reserved') and copyrights preventing most types of reuse (e.g. 'only for research purposes');

c. GLAMs 'in transition' stage, offering digital collections where reuse was allowed under licences that **reserved some rights** (e.g. CC BY-NC) or applied open access selectively to some of their resources and materials, and

d. GLAMs in 'full adoption' stage, releasing all digital collections under an **open statement of compliance** (e.g. Public Domain Mark, CC0, CC BY, CC BY-SA).

Wallace's (2020) work sketches an international pre-pandemic sectoral landscape where **GLAMs adopting a full open access policy**, in terms of releasing reproduction media under open-compliant licences, **represented a minority**, whereas even in this category, she still saw discrepancies across and within organisations regarding their policy and practice.

This is an interesting observation that deserves further attention and analysis in order to gain a better understanding of post-pandemic sectoral trends regarding open access culture, especially of European cultural institutions. To explore the issue further, we will draw on empirical

evidence provided by the ongoing OpenGLAM survey (McCarthy & Wallace, 2018 to present) and the most recent Europeana statistics[19].

OpenGLAM survey data for European GLAMs

Since 2018, OpenGLAM runs an ongoing survey of open access policies and practices in the GLAM sector globally (McCarthy & Wallace, 2018 to present)[20]. The survey maps the channels/ways by which cultural institutions open up their digital resources and metadata to online access, use and reproduction. Here, we focus on and present the data for European cultural institutions as of July 2023. The database of survey responses features 1,176 organisations that are based in Europe[21] and **which have made (at least some) open data available on their websites and/or external platforms[22]**.

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[19] https://metis-statistics.europeana.eu/en/ (last access 26 July 2023)
[20] At the moment of writing this report, the survey's total sample was 1,617 organisations across continents. We focus here only on the data provided by European cultural institutions until the 21st of July 2023.
[21] Out of a total of 1,177 European organisations, including also universities, government bodies and other entities outside the GLAMs
[22] Those GLAMs that have not yet released open access data are not included in the survey and therefore not represented in the empirical evidence reported here.

Participating GLAMs per country

Country	%	Country	%
Austria	2,0%	Luxemburg	0,1%
Belgium	3,0%	Malta	0,3%
Bulgaria	0,9%	Montenegro	0,1%
Croatia	0,4%	Netherlands	5,4%
Cyprus	0,2%	Norway	3,9%
Czech Republic	2,0%	Poland	7,1%
Denmark	1,8%	Portugal	3,7%
Estonia	4,0%	Romania	2,2%
Europe	0,1%	Serbia	0,5%
Finland	4,9%	Slovakia	0,6%
France	6,7%	Slovenia	1,7%
Germany	13,9%	Spain	5,5%
Greece	1,3%	Sweden	7,1%
Hungary	2,1%	Switzerland	3,1%
Iceland	0,3%	Ukraine	0,5%
Ireland	1,0%	United Kingdom	7,8%
Italy	2,1%		
Latvia	1,1%		
Lithuania	2,7%		

Figure 6 – Percentages of participating GLAMs per country in the OpenGLAM survey by McCarthy and Wallace (2018 to present) as of July 2023[23]

More specifically, the sample features data of cultural institutions from 34 European countries, including all EU member states (see figure X). Some prominent participants in the survey are GLAMs in Germany (13,9% of the sample), the UK (7,8%), Poland (7,1%), Sweden (7,1%) and France (6,7%). The smallest sample representation is recorded for small island states, such as Malta (0,3%), Iceland (0,3%) and Cyprus (0,2%), as well as for Montenegro (0,1%) and Luxemburg (0,1%).

Regarding the type of participating institutions, the survey sample features all GLAM categories as well as peripheral organisations directly related to the GLAM sector, such as research institutions and universities with cultural resources and collections. In particular, the sample consists of 46% of organisations identified as museums, 18% as libraries, 12% as libraries and 2% as galleries (figure 7). It should be noted that the seemingly

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[23] All figures and graphs presented in this section are original, based on the processing of the raw data provided by McCarthy and Wallace survey, as of 21st July 2023.

low percentage of galleries observed in the sample is not of particular concern, given that public or non-for-profit independent galleries often identify as 'museums'. For example, the National Gallery of Greece, the National Gallery of Irelland, Buxton Museum and Art Gallery (UK), Herbert Art Gallery and Museum (UK) and other organisations that feature in the sample are listed under the 'museums' category.
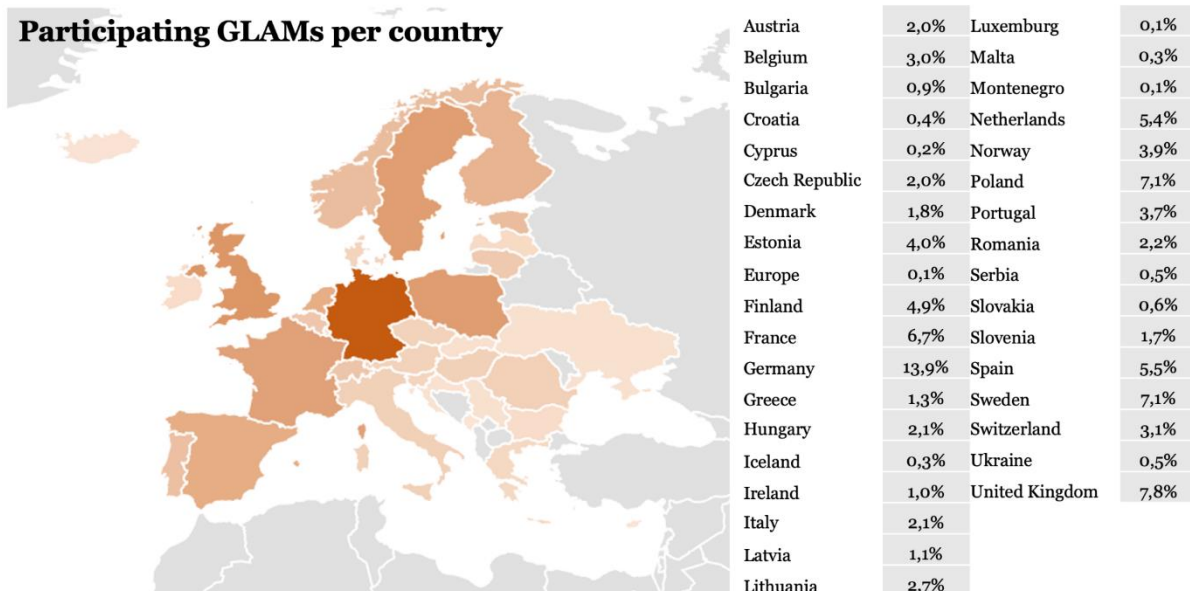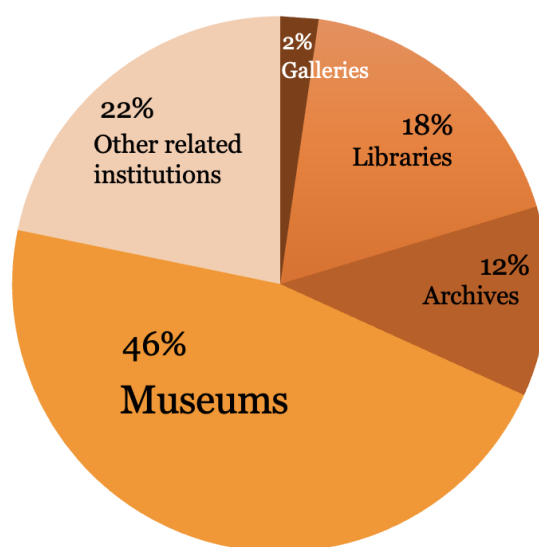

Figure 7 – Percentages of participating GLAMs per country in the OpenGLAM survey by McCarthy and Wallace (2018 to present) as of July 2023.

As already mentioned, all these organisations have released open access data on the web. According to the open data definition of the OpenGLAM initiative (see section 2.1), this positions them either in Wallace's (2020) 'full adoption' or 'transition' stage, whereby all or some of the resources are published under an open statement of compliance, such as the Public Domain Mark, that makes them freely available to all for reuse and redistribution. Survey data provides some further insight of the **open access scope** of European GLAMs.

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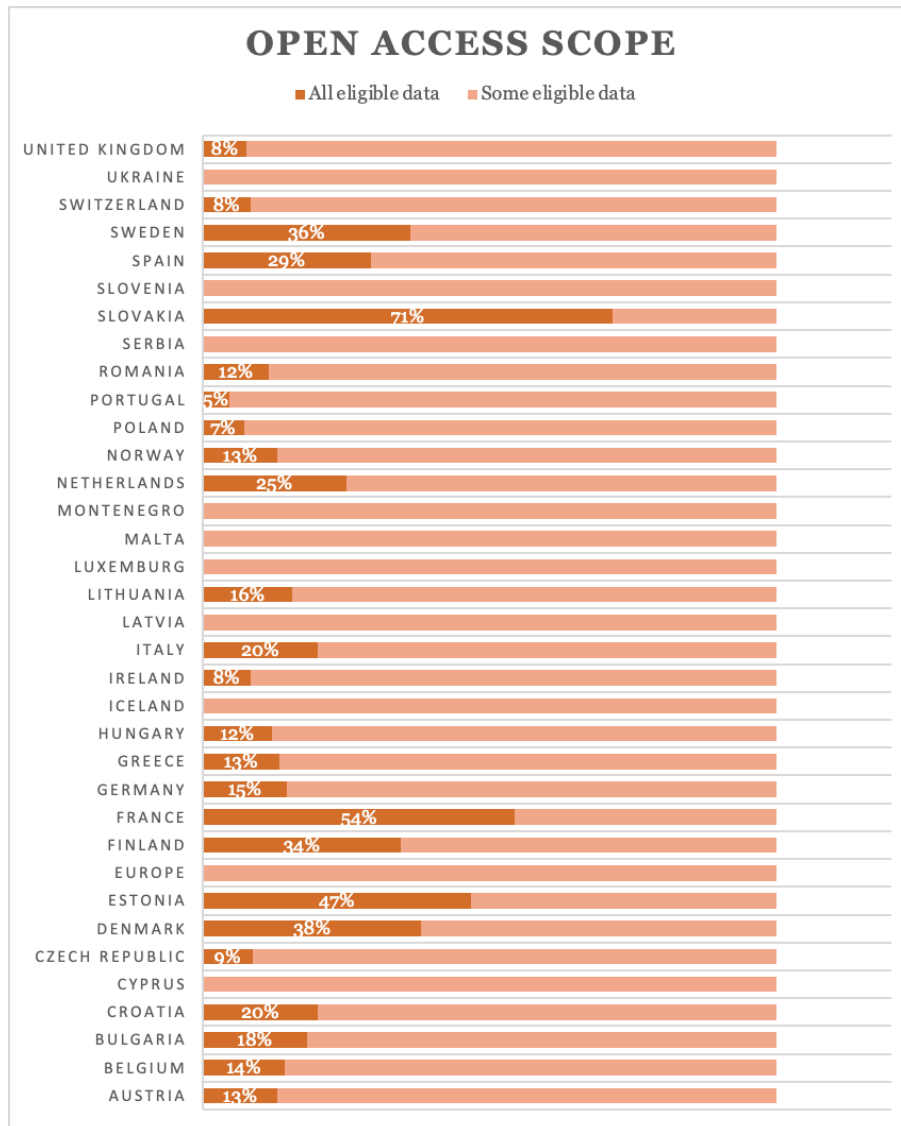
Figure 8 – Open access policy scope across GLAMs in Europe, based on the OpenGLAM survey data (McCarthy and Wallace, 2018 to present) as of July 2023.

As illustrated on figure 8, open access culture and policy in Europe presents disparity across the local sectors of different states. In particular, most participant organisations appear to have published **'some eligible data'** as open data so far, while they **still apply non-open access policies** for some other of their digital resources and collections. The GLAM sector in Slovakia seems to be an exception, as already 74% of its memory institutions reported to follow an open access policy to 'all eligible data'.

GLAMs in France and Estonia also demonstrate a strong commitment to open access publishing with percentages as high as 54% and 47%, respectively.

This empirical observation does not mean to suggest that local sectors in other European countries have not made available high volumes of cultural data and digital collections - for example, some GLAMs in the Netherlands, Germany and elsewhere were leading institutions for promoting an open access culture in the sector. However, the relatively low scores of 'all eligible data' (where, 'eligible' implies that participant organisations are not legally prevented from releasing the data), indicate some **hesitation at organisation level towards an all-embracing open data policy or broader barriers within and outside the sector**. For example, we have already mentioned how PPPs allow external players (private sector partners) to impose restrictions to data access and appropriation, such as the Google Arts & Culture platform, joined by hundreds of European GLAMs that lacked the resources to do digital work autonomously (see Section 2.10).

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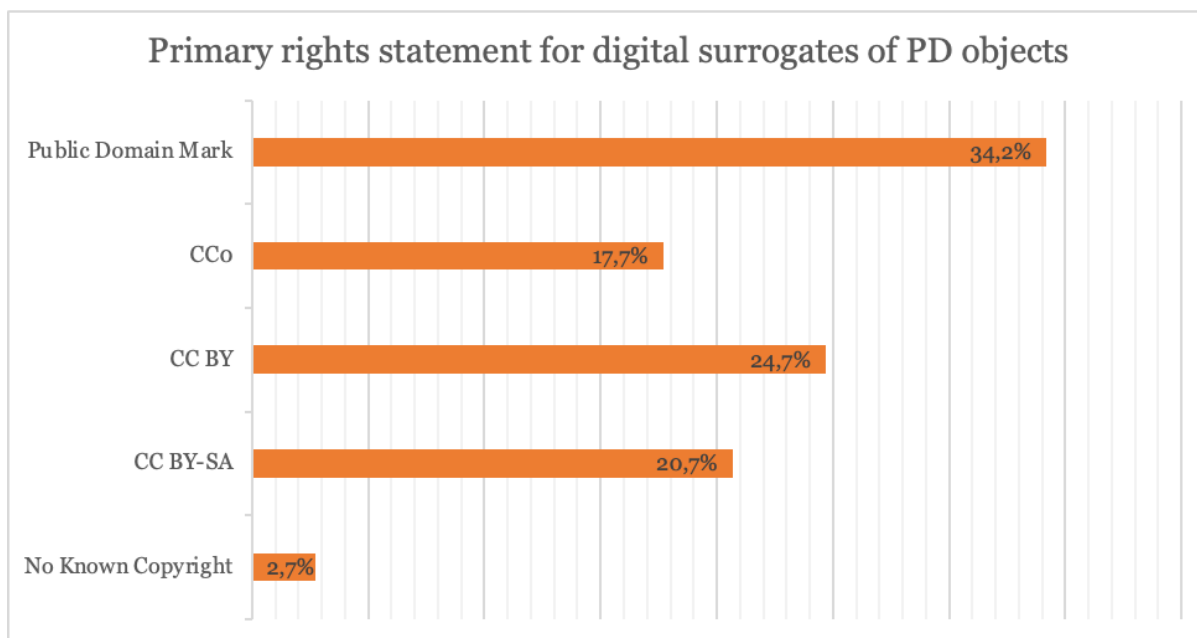
Figure 9 – Primary open-compliant statements (standard or local equivalents) under which GLAMs publish digital resources of Public Domain works, based on the OpenGLAM survey data (McCarthy and Wallace, 2018 to present) as of July 2023.

Regarding the release of digitised creative work that belongs to the Public Domain, most cultural organisations reported using the Public Domain Mark (34%), followed by the Creative Commons CC BY (25%) and CC BY-SA (21%) licences or national equivalents[24]. As noted in Section 2.7, the CC BY licence allows everyone to distribute, recreate and adapt the work for any purpose but contrary to the Public Domain Mark, they should give appropriate credit to the original source of the material while also indicating any changes made. Furthermore, the CC BY-SA (share alike) licence stipulates all new creations are distributed under a similar open licence. Both these licences allow for commercial uses. In addition, almost 18% of GLAMs participating in the survey said to release data under the

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[24] For example, GLAMs based in France use the Licence Ouverte, which is equivalent to CC BY.

Creative Commons CC0 (see also Section 2.5.2) or a local equivalent to 'no rights reserved' licence, which similarly to the Public Domain Mark does not introduce any restrictions to use, attribution and distribution. Finally, about 3% of GLAMs have published open access data under the more ambiguous 'no known copyright' whereby responsibility of tracking any relevant rights remains with the user.

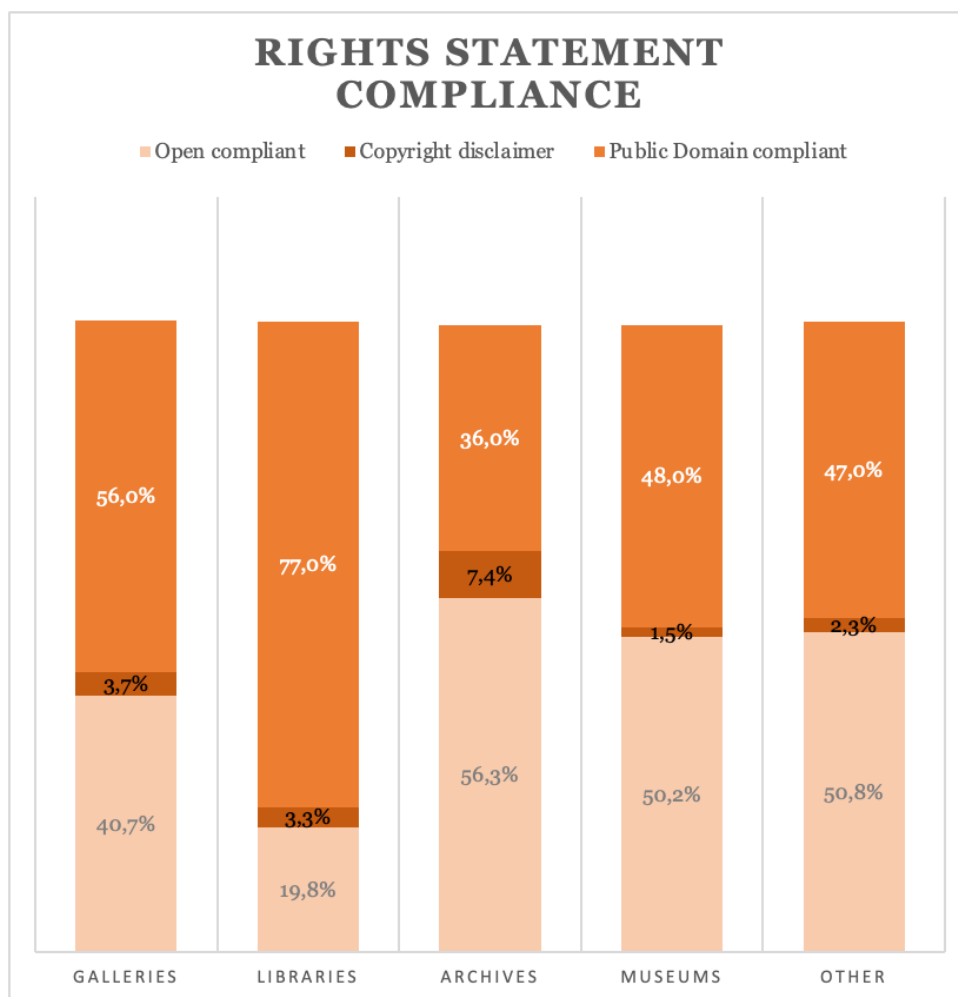*Figure 10 – Rights statement compliance of European GLAMs that have published open data, based on the OpenGLAM survey data (McCarthy and Wallace, 2018 to present) as of July 2023.*

Overall, we observe that **more than half (52%) of the organisations participating in the survey are Public Domain compliant**; their policy ensures

that Public Domain works remain openly accessible in their digital form by not introducing new rights to the data they make available. **A small percentage of GLAMs (3%) has a copyright disclaimer** (e.g. 'no known copyright'). This signals some uncertainty of whether the data are conclusively in the Public Domain while holding the user responsible for ensuring that reuse is legally compliant. Still, no new rights are claimed in the digital data released by the publisher. In addition, **a considerable percentage of GLAMs (about 45%) is 'open compliant'**, claiming new rights in the data released regarding attribution and licensing of reproductions and by products (under CC BY, CC BY-SA). However, as mentioned in Section 2.11, obligations to accredit original works, maintain thus integrity (thus, in essence, respecting their moral rights) or even sharing alike do not undermine all other permissions granted.

Although this is the general picture, notable differences can be observed across sub-sectors. As depicted in Figure 10, libraries are by far the most Public Domain compliant (77%) compared to galleries (56%), museums (48%) and archives (36%) which score considerably lower. In fact, **more than half of European museums (50.2%) and archives (56.3%) that provide open access to collections and materials seem reluctant to waive all rights to their digitised assets**, choosing instead for an 'open compliant' option that allows them to retain some rights over distribution and reuse.

Open Data Volume

Type of institution	N. objects
Galleries	203,165
Libraries	10,005,625
Archives	8,913,664
Museums	20,759,572
Other related institutions	
Aggregators	155,975
Corporate	14,049
Government	2,667,376
Private collections	1,629
Research institutions	25,251,666
Universities	3,819,114
Visitor attractions	2,056,967
Other	1,090,599
Total	74,939,401

Table 3 – An indication of the volume of open access culture materials released by European GLAMs, based on the OpenGLAM survey data (McCarthy and Wallace, 2018 to present) as of July 2023.

Regarding the volume of open access cultural materials, so far Europe-based institutions participating in the survey reported to have released in total, almost 75 million digital objects (Table 3). However, only 53% of these objects were published by institutions that make up the 'core' of the sector (i.e. Galleries, Libraries, Archives and Museums). Notably, European research institutions have contributed 34% of open access resources as found in the total sample. In fact, a closer scrutiny of raw data reveals that the largest contributor across all participant organisations with more than 19 million objects is the Centre national d'études spatiales (CNES), namely France's National Centre for Space Studies, which is an institution rather

peripheral to the GLAM sector (see also Table 4). These figures may provide an indication of the relatively small percentage of records and objects that are held at European GLAMs' collections and have so far become available online as open access digital resources.

	Institution type	Institution name	Country	Open data volume
1	Research institution	CNES	France	19,340,944
2	Museum	Natural History Museum	UK	8,139,830
3	Museum	Muséum national d'Histoire naturelle	France	6,564,165
4	Archive	Archives nationales de France	France	6,000,881
5	Research institution	Naturalis Biodiversity Center	Netherlands	4,790,165
6	Visitor attraction	Plantentuin Meise	Belgium	1,383,209
7	Government	Rijksdienst voor het Cultureel Erfgoed	Netherlands	1,373,963
8	Library	British Library	UK	1,275,287
9	Other	Portable Antiquities Scheme	UK	1,038,191
10	Library	Koninklijke Bibliotheek	Netherlands	863,544

Table 4 – Top 10 institutions in terms of their contribution of open data volume participating in in the OpenGLAM survey by McCarthy and Wallace (2018 to present) as of July 2023.

Last but not least, the OpenGLAM survey provides some interesting data regarding the publishing outlets and online platforms that GLAMs employ to distribute their open access materials. Here, **we observe the pre-eminence of Europeana across the sector, used by 39% of survey participants as their primary distribution channel** (Figure 11). A vast percentage of cultural institutions choose country-specific aggregators as the main location for releasing resources, such as Art UK in Britain, Coding Da Vinci and the Deutsche Digitale Bibliothek in Germany, or similar local initiatives,

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such as Paris Musée aggregator (see also Section 2.9). International platforms, such as Wikimedia Commons and Flickr are also employed but mostly as supplementary outlets.
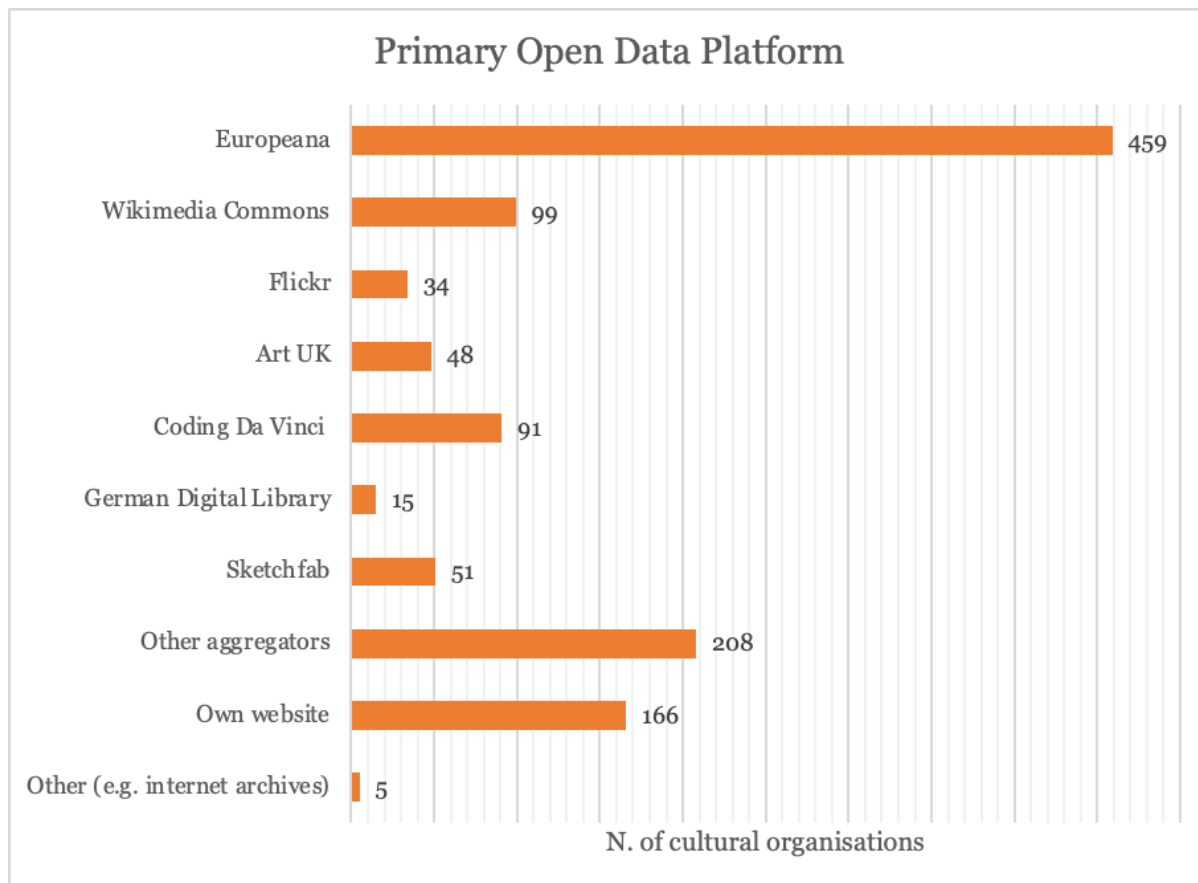
Figure 11 - Open data platforms chosen by cultural organisations as their primary outlets for publishing open data, based on the OpenGLAM survey data (McCarthy and Wallace, 2018 to present) as of July 2023.

Europeana statistics

As revealed by the OpenGLAM survey, Europeana is currently a key digital infrastructure for the distribution of open access data by European memory institutions. It is thus purposeful to review in greater detail some quantitative information regarding participation, volume of materials and

rights regimes, as provided by Europeana's latest records[25], in order to get a more comprehensive view of the digital landscape and resources availability across the sector in the post-pandemic era. In particular, we present here Europeana's statistics as of July 2023 providing a 'snapshot' of the volume of records featuring to the platform, contributor countries and types of institutions and most critically, copyrights and distribution rules of access for related digital records and collections.

COUNTRY	RECORDS PROVIDED	
Netherlands	9,075,411	15.96%
Germany	6,241,916	10.97%
United Kingdom	4,764,638	8.38%
Spain	4,729,532	8.32%
Sweden	4,636,212	8.15%
France	3,997,346	7.03%
Poland	3,709,933	6.52%
Norway	3,469,641	6.1%

Figure 12 – Countries providing digital cultural materials to Europeana ordered by volume of records (source: Europeana)[26]

Starting from participation, Europeana so far records almost 57 million contributions of GLAMs resources, including images, 3D, texts, sound and video records. These contributions originate from 46 countries, including all EU member states, other states in Europe (e.g. Serbia, Switzerland) as well as states in the broader geographical territory, such as Turkey, Georgia, Azerbaijan and others. The 'champion' states in terms of their volume of contributions are **the Netherlands** (about 9 million records representing 16%

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[25] All statistics presented in this section have been extracted by the Europeana website (https://metis-statistics.europeana.eu/en/) as of 27 July 2023.

[26] All graphs presented in this section have been reproduced by the Europeana website (https://metis-statistics.europeana.eu/en/) as of 27 July 2023.

of all Europeana materials), **Germany** (α. 6m records making up 11% of all materials), **the UK** and **Spain** (α. 4.8m and 4.7m records, respectively corresponding to 8,4% and 8,3% of all materials), followed by **Sweden** (α. 4.6m), **France** (α. 4m), **Poland** (α. 3.7m) and **Norway** (α. 3.5m). **Austria** (α. 2.7m) and **Belgium** (α. 2.5m) are also found among the top ten contributors.

DATA PROVIDER	RECORDS PROVIDED	
Naturalis Biodiversity Center	4,512,666	7.93%
The National Archives of Norway	2,995,833	5.27%
National Library of France	2,976,647	5.23%
The Trustees of the Natural History Museum, London	2,453,996	4.31%
Austrian National Library	1,499,812	2.64%
Virtual Library of Historical Press	1,435,368	2.52%
Meise Botanic Garden	1,383,210	2.43%
Deutsche Fotothek	1,311,703	2.31%

Table 5 – Top data providers to Europeana by volume of records (source: Europeana)

These data have been provided by a total number of 3,532 institutions, including all core GLAM categories and several peripheral organisations, such as universities (similarly to the OpenGLAM survey). Indicatively, amongst the top providers in terms of volume of records are three museums (the Dutch natural history museum 'Naturalis Biodiversity Centre', London's Natural History Museum and Meise Botanical Garden in Belgium), one archive (National Archives of Norway) and four libraries (National Library of France, Austrian National Library, the Spanish 'Library Biblioteca Virtual de Prensa Histórica' and Deutsche Fotothek) (Table 5).

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	Total	**56,878,667**	**100%**
1	**Public Domain Mark**	11,882,751	20.89%
2	**In Copyright**	9,984,106	17.55%
3	**CC0**	7,419,345	13.04%
4	**CC BY**	7,132,113	12.54%
5	**CC BY-SA**	4,301,357	7.56%
6	**CC BY-NC-SA**	3,713,148	6.53%
7	**CC BY-NC-ND**	3,657,704	6.43%
8	**No Copyright - Other Known Legal Restriction**	3,107,666	5.46%
9	**No Copyright - Non Commercial Re-Use Only**	1,688,018	2.97%
10	**In Copyright - Educational Use Permitted**	1,586,891	2.79%

Notes: Raw data extracted from the website (not exhibited on the table) also reports:
1,204,904 records released under CC BY-NC (2.12%),
886,324 records with a 'copyright not evaluated' statement (1.56%),
284,152 records published under a CC BY-ND licence (0.5%) and
30,188 records 'in copyright – EU Orphan Work (0.05%)

Table 6 – Rights category (volume and percentage) of Europeana digital resources (source: Europeana).

Most importantly, regarding copyright and open access, Europeana reports that a considerable amount of its digital materials (almost 21%) has been released under a Public Domain Mark, whereas another 13% is also free of copyrights under a CC0 licence (Table 6). Thus, through Europeana **a total volume of 19.3 million cultural resources have been published as open access data (a. 34%)**. About 10% of resources (corresponding to about 5.7m records) are accompanied by a 'no known copyright' statement (i.e. 'no copyright – other known legal restriction', 'no copyright – non-commercial

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reuse only', and 'copyright not evaluated'). Moreover, GLAMs **maintain some rights through CC licences for about 20.3 million digital records, corresponding to 35.7% of Europeana materials**. For 20.10% of these materials, copyright prescribes only for attribution (CC BY) or attribution and share alike (CC BY-SA); in essence, maintaining much of the resources' 'openness'. At the same time, it is important to note that commercial use is prohibited for 8.6 million of those records (released under CC BY-NC, CC BY-NC-SA and CC BY-NC-ND), corresponding to 15.1% of Europeana materials; this number rises even further if we also count the 1.7m resources released under a 'no copyright – non-commercial reuse only' statement. Moreover, 3.7 million of 'some rights reserved' materials (a. 6%) have been released under the most restrictive licence offered by Creative Commons (CC BY-NC-ND), which allows users to share but not change in any way (see also Section 2.6). At the same time, there are still about **10 million resources (a. 18% of all materials) that remain in copyright and thus, are not openly accessible for any kind of reuse without formal permission**.

This information reveals that **in practice, almost half of GLAMs digital resources distributed through Europeana are not openly accessible.** Although we cannot be sure whether all these data are 'eligible' for being published under an open licence (e.g. copyrights might belong to a third party, artists/rights holders might not have granted permission to share etc.), the percentages of both the 'some rights reserved' and the 'all rights reserved' materials are quite substantial, implying that **openness has not yet crystallised as the standard for sectoral practice across European GLAMs.**

Open access trends in post-pandemic Europe: Concluding remarks.

During the past years, much of GLAMs efforts have been focused on digitising their collections of artefacts, books, archives and other objects of cultural, scientific and historical significance. From the early 2010s, memory institutions, such as the Rijksmuseum in Amsterdam and the British Library in London have been international pioneers of embracing an open access policy and promoting it as a paradigm for good practice in the sector. In the years that followed, many other cultural institutions had gradually joined their efforts by releasing open access data, as witnessed by the OpenGLAM survey and Europeana statistics examined in this document.

There is still great variance across the sector regarding digital copyright and open access policy, not only amongst different sub-sectors (e.g. libraries as compared to museums and archives) but also within the same sector. For example, in 2020, Paris Musée, the public institution that oversees all municipal museums of France's capital, adopted an open access policy providing access to the metadata of thousands of high resolution images of public domain artwork found in their collections. However, other prominent institutions, such as the National Museums in the UK continue to charge image reproduction fees out of copyright for many of the paintings, prints and drawings that they held in their collections. The British Museum (BM) continues to claim copyright ownership in the images

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of its collection. They have published some of their content on their website under a CC BY-NC-SA 4.0 licence (Attribution-NonCommercial-ShareAlike). The organisation justifies their policy on the following premises[27]:

- Not all digital content is owned by BM. The organisation has obtained permission to use on its website but cannot allow reuse due to intellectual and photographic rights.

- Some content is subject to cultural sensitivities.

It has been quite common practice for GLAM institutions to restrict the dissemination and use of their digitised assets through the application of fees, even for works that belong to the public domain thus, there are no legal restrictions to sharing for free (Sanderhoff, 2014). Yet, the fees are often applied **for preventing misuse**, especially through commercial or political appropriations (thus, defending moral rights), or **for compensating digitisation costs** (thus, defending photographic rights; Sanderhoff, 2014). In addition, and related to those, bibliography also reports more ontological factors that support the 'reluctance' of institutions to engage with the 'all open' dissemination pattern of cultural data. These refer to the **established state protectionism of tangible cultural resources in Europe** (Lekakis, 2020) that understands **digital cultural products as an extension of the physical objects and awkwardly infers use limitation from the restrictions in the physical realm.** Greece is a paradigmatic case study; even though the state

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[27] https://www.britishmuseum.org/terms-use/copyright-and-permissions (last access 20 July 2023).

complied to the Open Data directives in 2020[28], it has established a national digitization strategy in 2021[29] and adopted changes to its Copyright Act, transposing all the provisions of the Digital Single Market directive in 2022[30], a "labyrinthine licensing framework" stands for the reuse and adaptation of cultural data, referring back to the limitations provided in the Greek Cultural Heritage Code (Law no. 4858/2021), especially those under article 46 (Markellou, 2023: 15-16).

Although important steps have been made, more efforts (and resources/infrastructure) are required so that openness can become the standard good sectoral practice. Discrepancies are also observed in the digital work within the same organisation; a vast percentage of GLAMs reports that their digital policy is releasing 'some eligible data' as open access (thus, claiming some or all rights for the rest). It appears that greater consensus is needed to ensure no new rights are claimed in the digital versions of Public Domain works (thus, PD works remain in the PD) while digital cultural heritage resources are shared responsibly, both within, but also separate from, established institutions, allowing for a greater socially-embedded engagement with GLAMs work, digitised records and objects.

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[28] Directive (EU) 2016/2102 and Directive (EU) 2019/1024
[29] https://digitalstrategy.gov.gr/sector/politismos (last access 26 July 2023)
[30] https://eur-lex.europa.eu/eli/dir/2019/790/oj (last access 26 July 2023)

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