

Licensing out-of-commerce works: a perspective from cultural economics

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Economics of CMOs

- Reduce transactions costs but reduce incentive to create through blanket licensing.
- Transaction costs are greater the longer the copyright term:
 - Search costs
 - Costs of making arrangements
- In case of the Directive, the relevant incentive is not 'creating' the work but 'preserving' and 'disseminating' them.
- In general the costs are being transferred from the user to the rights owner by this rule. In fact, copyright is seen as nuisance for the user – instead of a benefit to society via creativity.

Economics of CMOs

- The main difficulty of the proposal is the idea of out of commerce. This would mean another layer of search costs.
- Work I did in music publishing was rife with ambiguities on ownership and titles, and what was in or out of commerce.
- The long term solution of this problems is the digital equivalent of registration i.e. using International Standard numbers. But this is another mind field... as the music industry has discovered to its cost.
- Another issue is why would the CMOs want to administer ER?

...and for museums

- From a cultural economics perspective, there are four key questions to ask:
- First: What is 'out of commerce' in a museum if objects can be sold anytime?
 - Museums may not own the objects / hold copyright
 - Museums may want to consider a sale of a piece (deaccessioning is never an easy topic)
 - Or is it about image licensing? Potentially never out of commerce !

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- Second, Why do museums digitise?
 - Digitisation may respond to one or more goals, each leading to its own rabbit hole...
 - Museums may *not* want to digitise, due to lack of legal / technical know-how, loss of potential income, or fear of losing control (loss of moral right aspects).
 - Museums approach this differently:



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- Third, Who finances and who benefits from the digitisation and online access?
 - The digital museum is a public good and therefore public financing can be allocated
 - Can a digital museum expect a different (broader) audience than the regular physical museum?

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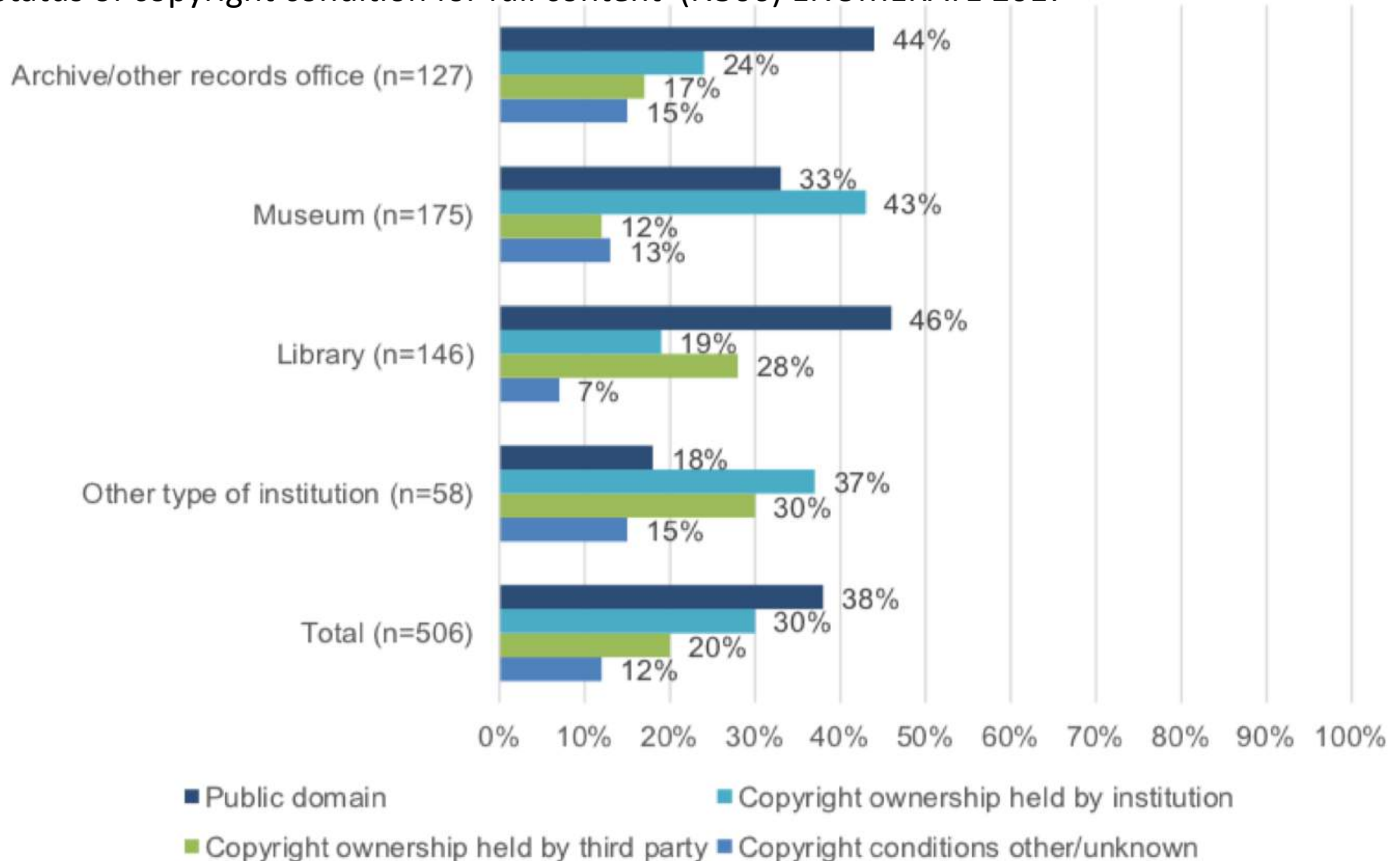
- Fourth, Is the Directive an incentive for museums to mass digitise and make collections accessible online?
 - Endorsed by large museums / partnerships
 - Supported by technological advancement (e.g. LinkedArt)

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- Museums are multipurpose organisations:
 - Preservation, research, display (devils triangle)
- 82% EU heritage institutions are engaged with digitisation, 42% have a digital strategy, progress in 2017 (ENUMERATE):
 - Digital catalogue 58%
 - Digital image 10%
 - Online accessible 3%

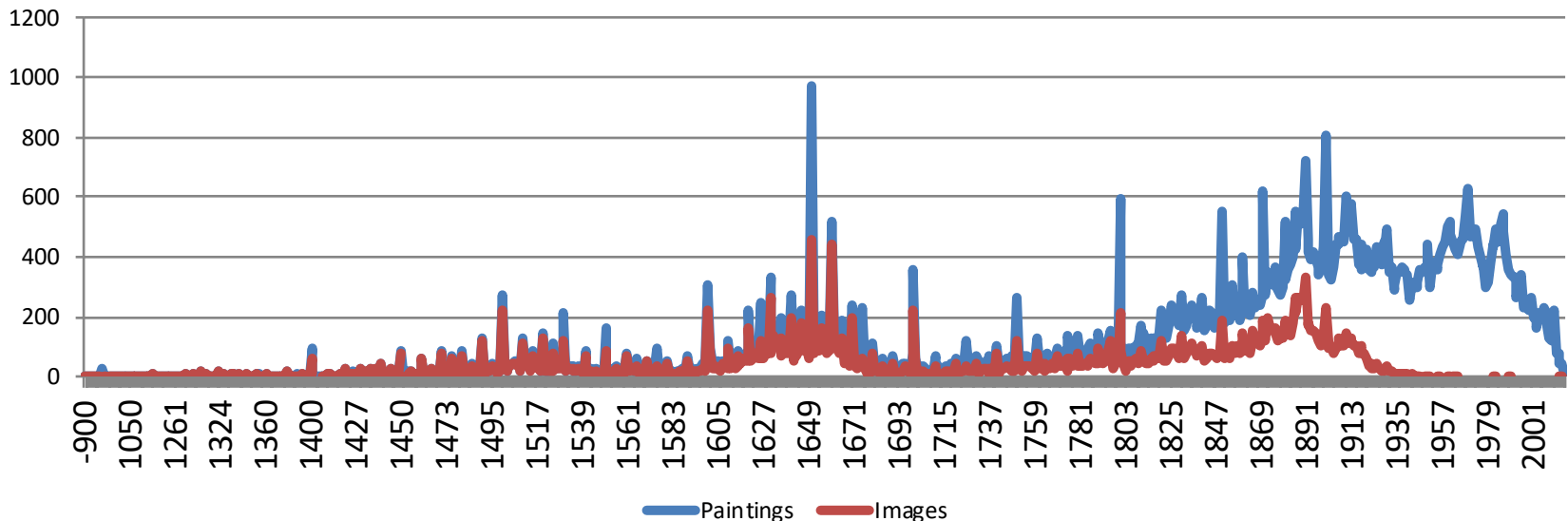
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Status of copyright condition for full content (N506) ENUMERATE 2017



...and for museums

- From previous research on the availability of images / articles in Wikipedia, there is a gap in online accessibility



- There is *clearly* a need / desire to digitise and make collections fully accessible.

Concluding thoughts

- Copyright as applied to creators to create, does not fit comfortably in the role of museums – mostly with historic collections.