i2010 EUROPEAN DIGITAL LIBRARIES INITIATIVE

High Level Expert Group on Digital Libraries
Sub-group on Public Private Partnerships

Final Report on Public Private Partnerships for the Digitisation and Online Accessibility of Europe's Cultural Heritage

May 2008

EXECUTIVE SUMMARY

Public private partnerships have an important role in helping achieve the European Commission's strategy for digitisation, online accessibility and digital preservation of Europe's collective memory.

Whilst libraries, archives, museums and galleries have preserved this collective memory and have experience of resource discovery and user requirements, private partners can bring to the table funding, technology, software and expertise required for large-scale digitisation. By working together public access can be enhanced.

For public and private partners to make the most of these partnerships, case studies suggest that cultural institutions and private partners should take the following into account:

- the vision, mission and strategic objectives of all partners and the benefits for the citizen to be achieved through the project
- the need for a formal, transparent, accountable partnership, which does not establish exclusive agreements that are not time-limited
- the need to manage the partnership through a formal governance structure
- the need of the partnership to operate within the framework of applicable copyright and intellectual property law, and the need for the ownership of such rights after digitisation to be clearly stated
- the sustainability of the business model for the long-term

A check-list is provided in Annex 3.

The Sub-group also made the following recommendations:

Financial environment:
"**The sub-group recommends that legislation aimed at supporting finance of cultural heritage through the provision of fiscal benefits to private partners is more extensively applied to digitisation projects.**"

IPR:
"**The sub-group recommends that the guiding principle is that partnership should be established within the framework of applicable copyright law.**"

Public domain:
"**The sub-group recommends that public domain content in the analogue world should remain in the public domain in the digital environment. If restrictions to user's access and use are necessary in order to make the digital content available at all, these restrictions should only apply for a time-limited period.**"

Exclusivity:
"**The sub-group recommends that exclusive arrangements for digitising and distributing the digital assets of cultural institutions are to be avoided.**"

Re-use:
"**The sub-group recommends that cultural institutions should aim to abide by the principles of the European Directive 2003/98/EC on the re-use of Public Sector Information (PSI)**"

Governance:
"**The sub-group recommends that Public Private Partnerships have formal governance arrangements enshrined in a formal contract between parties.**"

CONTENTS

1. CONTEXT

The European Commission has made digital libraries a key aspect of i2010. In its Communication "i2010: digital libraries" of 30 September 2005, it set out its strategy for digitisation, online accessibility and digital preservation of Europe's collective memory. Within this context, Commissioner Viviane Reding said "Member States must work to support innovation, making our vision of a knowledge society a reality … a strong partnership is needed between all the players involved."[1]

The third meeting of the High Level Expert Group (HLEG) on Digital Libraries, held in Brussels 18 April 2007, opened the debate on how best to promote and to make use of public-private co-operation and private sponsorship for the digitisation of Europe's cultural heritage.

The Commissioner pointed to the necessary presence of both public and private players in the digital libraries initiative to solve problems and deliver high quality services. The HLEG was asked to help by "identifying the opportunities and conditions under which PPPs become success stories for all involved parties: private actors, public authorities and citizens." The Commissioner pointed out that "Public-private partnerships for the digitisation of content should be encouraged to make information available online, as well as the private sponsoring of digitisation projects."

At the end of the meeting, the HLEG took the decision to appoint some members to work together as the Sub-group on Public Private Partnerships ("the sub-group"), to analyse and discuss issues relating to the use of public-private partnerships, including success factors, choice of partners, business models, IPR and exclusivity issues. The new sub-group was asked to report its findings to the plenary session of the HLEG in autumn 2007. Ms Brindley was appointed as Chair of the sub-group. The members of the sub-group are listed at Annex 1.

The first meeting of the sub-group took place on 11th July 2007 in London, and further meetings were held on 24th October 2007 and 14th February 2008. A draft report was presented at the HLEG plenary session in November 2007. This report presents the sub-group's findings in full and should be read in conjunction with the case studies in Annex 2.

2. DEFINITION OF PUBLIC-PRIVATE PARTNERSHIPS

The public-private partnerships (PPPs) under discussion in this report have a wide definition and are not limited to a specific definition in law. By PPPs we mean any partnership between a private-sector corporation and a public-sector body, through which the parties contribute different assets to a project and achieve complementary objectives.

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[1] Viviane Reding, European Commissioner for Information Society and Media

Some partnerships may involve organisations in the educational sector, such as higher education institutions. These may be public or private, but for the purposes of this report they are assumed to be in the public sector. However, even if such institutions are private, they tend to act in the public interest. It is for individual institutions to apply the recommendations in this report as best fits their own circumstances.

This report is intended for use primarily by libraries, archives and museums and private-sector companies considering a partnership with one of these public-sector institutions. It should be noted that public-sector partners may have specific responsibilities, as follows:

- They often have legal deposit responsibilities, which means they are mandated by their government to collect the creative output of the country (if a library, then the published output; if a documentary archive, then the documentary output of public institutions; if a broadcast archive the radio, television and film output, and so on).
- Their remit is to provide maximum access to their specific core audience; their content represents knowledge that is of value to the nation and should be made available to citizens.
- They may also have to store and preserve content, to ensure access by future generations. The responsibility for preservation extends to ensuring all the necessary actions are taken to ensure the object's permanence.
- They work for the long term. There is no fixed time-span for preservation; they must take all the necessary actions in order to impede physical degradation or loss of information.
- Very often, they do not own intellectual property rights in the underlying works; they have a responsibility to respect the intellectual property of rights holders; rights management issues are important and complex.
- Because of their public funding, they may be limited by government or European Union rules in commercialising their activities or the level at which they can be charged for. Priced business models therefore may be difficult to develop.

The individual responsibilities of the public-sector player depend on their activities and jurisdiction.

3. SCOPE OF THE SUB-GROUP

At its first meeting, the PPP sub-group agreed that the scope of its work should be to:

- Explain how PPPs can be used to digitise content and ensure that it is widely accessible and exploited;
- Identify elements of a public-private partnership that make it successful for all parties involved;
- Produce guidelines on terms of public-private contracts including exclusivity, business models, IPR ownership, termination clauses, etc;

- Highlight case studies of good practice and experience - both from member states, public institutions and the private sector.

The sub-group also agreed that the report should cover:
- Examples in specific media sectors based on case studies from libraries, archives, museums and audio-visual archives;
- Protection of public domain content, including both public ownership, public access and the preservation benefits of digitization;
- The balance between the interests of content creators, publishers, users, the remit of public-sector institutions and the commercial considerations of private-sector companies;
- Long term sustainability and timeframe considerations.

The report is not intended to be prescriptive, but it provides as a set of guidelines and identifies issues, to allow public and private players in Member States to draw their own conclusions as to whether public-private partnerships would benefit them.[2] The Google representative was of the view that finding the optimal way to encourage and foster participation by governmemts, rightsholders, libraries and private companies alike was essential for securing maximum benefits for European users and citizens. In this context, he welcomed the recommendations from the sub-group but was not in a position to fully endorse all the analysis supporting them.

The sub-group has based its findings on a number of case studies prepared by the participating organisations; the case studies are discussed in section 5 and throughout the report.

The sub-group agreed to exclude from its scope:
- A detailed discussion of the technology issues, because while they are important, they depend on the specifics of the project. This report intends to provide practical guidance in initiating and managing partnerships, rather than the theory and practice of solving technological problems;
- A detailed consideration of the legal issues, as these depend heavily upon statute and case law in the country in question, which may vary widely between Member States;
- A detailed examination of the copyright issues, as these are dealt with by the HLEG Copyright sub-group.

4. CONSULTATION

The work of the sub-group has taken place in consultation with key stakeholders. Feedback from these stakeholders has been incorporated into the relevant sections of the report and is detailed in full at Annex 4. The sub-group would like to thank these stakeholders for their contributions.

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[2] The report represents the opinion of a majority of the participants of the PPP sub-group and does not necessarily reflect the individual position of its members on each of the specific issues it addresses. No inferences should be drawn from this document as to the possible legal implications of the analysis proposed.

5. CASE STUDIES

The sub-group was asked to consider and highlight examples of public-private partnerships and good practice in libraries, museums and archives, and hence this report is based on evidence from a number of case studies provided by the sub-group participants. The case studies are appended to the report in full at Annex 2. In many cases the projects under consideration are in their early stages and therefore the case studies should not be interpreted as an up-to-date state of play of these projects. New case studies and updates of the annexed case studies will be posted on the Digital Libraries' initiative website after the finalisation of this report.

The following paragraphs summarise the case studies in terms of:

- A high-level introduction to the project

- A brief description of the partners and their contributions

- The access model provided for the user.

Full details are provided in Annex 2.

5.1 Biblioteca Virtual Miguel de Cervantes (Cervantes Virtual Library)

This partnership was established in 1999 to deliver a virtual library of Hispanic literature, science and culture, with the aim of creating a tool to support the expansion of Spanish and Latin American culture across the world. There are nine public sector partners including the Universidad de Alicante, the Ministerio de Cultura, the Ministerio de Educación y Ciencia, the Ministerio de Trabajo y Asuntos Sociales, Secretaría de Estado de Cooperación Internacional, Generalitat Valenciana, Conferencia de Rectores de las Universidades Españolas, Real Academia Española and the Instituto Cervantes. There are 8 private sector partners, including Banco Santander, a major Spanish retail and commercial bank; Telefónica, the telecoms provider; Grupo PRISA, the media company; Repsol YPF, the oil company; the Fundación Marcelino Botín and Fundación Germán Sánchez Ruipérez, both cultural and educational foundations; Federación de Gremios de Editores de España, the publishing association; and Universia, an internet portal for universities. Each of the partners has specific responsibilities, including provision of funding, content, technical expertise, access to audiences, etc. The content is rights-cleared and freely available to the user. This case study is an example of the creation of a free-to-access digital library for rights-cleared content, with wide participation and co-operation from a large number of private and public sector players. See Annex 2.1 for further details.

5.2 Bibliothèque nationale de France and Syndicat National de l'Edition (SNE), France (BnF and French Publishers) – An experiment within Gallica 2

This partnership is the evolution of a joint BnF-SNE working group on possible business models for including in-copyright content and public domain content within a common search portal. The partnership is between the BnF, publishers who are members of the Syndicat National de l'Edition (SNE), (such as Hachette, Gallimard, Editis, La Découverte, etc), and e-retailers chosen by the publishers (such as Numilog and Cairn). The BnF has included, in its Gallica 2 digital library, an experimental platform including both in-copyright and public domain material in a common index, and will work with the publishers and aggregators to agree an homogeneous price structure for accessing e-books online. The publishers will digitise their own content and clear the necessary rights with the authors. The partnership is still under development and the experimental platform, included within Gallica 2, was launched in March 2008 at the Salon du Livre, Paris.

This case study is an example of an e-books model for both in-copyright and out-of-copyright content. See Annex 2.2 for further details.

5. 3 British Library and Cengage Gale

The partnership established between the British Library and Cengage Gale needed to provide a long-term web-based platform for the delivery of digitised historical newspapers into the core customer groups served by the British Library.

The British Library contributed curatorial expertise, project management, digitised content, and additional editorial material such as essays, as well as collaboration in the development of the web service. Cengage Gale provided the web-based database platform, the sales force, technical expertise, customer support and editorial development. A significant part of the digitisation was funded by JISC in the UK and the National Science Foundation in the US. The initial launch to UK Higher Education took place in October 2007; access by this audience is free. The public site will be launched in summer 2008 and will involve some level of pay-per-view access, of which the details are yet to be decided.

This case study provides an example of free-to-access and priced business models via the same platform, to ensure sustainability for further digitisation. See Annex 2.3 for further details.

5.4 Google and the University of Michigan (Google – Michigan project)

This partnership was established in 2004 to digitise certain collections in the University of Michigan's library of 7 million bound copies. The University wanted to make the library's resources more widely available for education and research, including for future generations. Google's contribution is to digitise the works from the University of Michigan's collections, to include in its Google Book Search service, making them

available for discovery and research. The University of Michigan library receives a digital copy of the digitised works to use for its own purposes. Both parties worked together to identify the content to be digitised, which includes both in-copyright and public-domain content. This partnership is ongoing. Search is possible through the Google search engine and the University of Michigan library catalogue. Access to the full text is available to the user for free through Google Book Search for public-domain content; access to two or three short excerpts where the words searched appear is available free for in-copyright content as well as where to find it in a library, or where it can be purchased. The partnership is intended to favour user access to both in-copyright and out-of-copyright books.

In parallel, Google is developing a number of partnerships with publishers willing to make their books searchable and accessible through Google Book Search.

This case study is an example of a mass-digitisation project for in-copyright and out-of-copyright books. There are divergences of opinion between the members of the sub-group as to whether making a digital copy of the work and providing access to an excerpt of the digital copy for in-copyright material infringes the publisher's or author's copyright. This specific part of the Google Book Search programme is the subject of on-going litigation in the USA and France.

See Annex 2.4 for further details.

5.5 Institut National de l'Audiovisuel, France (INA)

INA is one of the world's largest audio-visual archives. The organisation collects, safeguards, digitises, restores and distributes French television and radio archives, with holdings of over 3 million hours of content, and is the legal deposit repository for French broadcast material. In 2000, INA launched a major digitisation and preservation project for its archives, which involved transferring the original analogue contents to digital media, developing a search system, digitising the metadata (such as content creators and production rights) to allow commercial exploitation, and developing a commercial sales and rights management team. A full commercial service to the professional broadcast sector has been available since 2003 which, through a series of partnerships, has evolved to broking and commercial distribution on behalf of external content holders.

This case study provides an example of a priced business-to-business model for archives. See Annex 2.5 for further details.

5.6 Library & Archives Canada, Open Text Corporation and the University of Waterloo (The Canada Project)

The Canada Project is in its early stages and the details of the project are under negotiation. However, the principles of the project are clear. The project aims to digitise Canada's entire extensive published and scientific heritage, including books published in or about Canada, magazines, journals, pamphlets, maps, television and radio

programmes, films, music, government publications and content published by universities such as theses. For archival holdings, the project aims to at least digitise the catalogues and other discovery aids, and create an on-demand digitisation service. There are three founding partners – Library and Archives Canada (the country's national library and archives); Open Text Corporation (a commercial provider of electronic content management systems) and the University of Waterloo (one of Canada's leading universities). Discussions regarding participation are ongoing with a number of other public and private sector institutions.

This case study provides an example of a large-scale partnership involving many public and private stakeholders to digitise, provide access to, and preserve, a major part of a country's heritage. See Annex 2.6 for further details.

5.7 Open Content Alliance

The Open Content Alliance was established in 2005 and brings together more than 50 partners of three types:

- Libraries, archives and other cultural institutions willing to make their collections freely available over the internet
- Search engines willing to promote open search and who wish to improve the user experience
- Open repositories to facilitate sharing and replication of content.

Content owners contribute their collections and part-fund the digitisation; search engines contribute their indexing technology and some funding; Internet Archive and other open digital repositories provide their infrastructure for storage, access and processing of digital content. Public access to public domain content is free; solutions are under consideration for sustainable business models for in-copyright content. 200,000 books had been digitised as at October 2007.

This case study provides an example of an open-standard digitisation project for in-copyright and out-of-copyright content, primarily books. See Annex 2.7 for further details.

5.8 The National Archives (TNA) – Find My Past Limited partnership for Outbound Passenger Lists (Licensed Internet Associateship)

This partnership has made possible free public access to Crown copyright archival materials at the TNA, London and charged access to the lists available on the private partner Find My Past Limited's micro-site. Royalty payments are received by the TNA calculated on individual transcript and image downloads.

TNA would not be able to digitise these materials without this partnership. It uses an existing model, Licensed Internet Associateship, to specify terms and conditions. As

there are other LIA partnerships involving the digitisation of name-rich genealogical materials it is important to specify a similar user experience for all these partnerships.

This case study shows how royalty payments from a charged service can be earned by the public partner – this revenue is ploughed back into other digitisation projects. See Annex 2.8 for further details.

5.9 Bibliothèque nationale de France – France Telecom

This partnership will allow the partners to explore 'geolocalization', the identification of place names in a full-text context to be combined with geographic co-ordinates. Other research and development work is under discussion.

It will allow the BnF to provide innovative search modes for their online services. For France Telecom the large digital collection of BnF offers a testbed for new services to their customers.
See Annex 2.9 for further details.

6. WHY PARTNER? OBJECTIVES AND BENEFITS OF PUBLIC-PRIVATE PARTNERSHIPS

6.1. OBJECTIVES FOR PUBLIC PARTNERS

The primary objective of public-private partnerships for the public institution is access to funding to digitise their collections. In all of the case studies considered, private sector funding which would not be possible from the cultural institution alone is a critical component.

However, private sector partners play a much wider role in partnerships than simply providing funding for digitisation. They also provide access to technology for digitisation, such as scanning systems, optical character recognition technology, software to "clean" digitised images and resource discovery platforms technological expertise, which may not be the core competence of cultural institutions. For example, in the Canada Project, the Open Text Corporation will provide software and technical support free of charge. Cengage Gale provides the British Library with a resource discovery solution which the British Library would not have been able to develop on its own, at least without significant investment. The technology solutions employed by partners in our case studies include scanning, optical character recognition (required to convert images to text), access platforms, search and retrieval, rights control and content management.

Providing enhanced access to resources is also important for the public sector. Digitisation has become a necessity for libraries, as younger users are very comfortable with digital resources and tend to make more use of digital material, although evidence points to growing familiarity with digital material across all age

groups. Digitisation is therefore emerging as a key enabler of wider access in cultural institutions, particularly libraries and archives, and provides a much richer experience for the user, particularly in search and delivery. In this context the private sector has a crucial role to play in providing its expertise and experience in addressing new users' needs and expectations.

For public partners, digitisation may also have the objective of providing important preservation benefits; particularly for sound and broadcast archives where digital is an accepted preservation medium.

Other significant benefits include access to private sector competencies such as product development, sales and marketing; enhancing methods and the availability of content for scholarly research; engaging new audiences, particularly young people; and promoting knowledge transfer across disciplines and sectors. Private partners may also provide weight to lobbying efforts to increase government funding.

6.2. OBJECTIVES FOR PRIVATE PARTNERS

The objectives for private partners are much more varied and depend on the specific project and partner, but they fall broadly into two groups: commercial objectives; or demonstrating corporate social responsibility.

Commercial objectives include access to new markets or customer groups, association with strong public brands, and access to out-of-copyright content, (some of which may be rare or unique), all of which may be monetised through commercial revenue streams. For example, BnF and the French publishers, aggregators and online book retailers aim to create a common search portal that will provide free access to public domain content and priced access to in-copyright material, mainly books. The publishers and book retailers aim to increase their exposure to the potential market, and therefore grow their revenues by offering their content online.

The commercial objectives may benefit the public sector partner financially through direct fees from the user of the service, or through royalties or revenue share agreements. Examples are INA, which receives 40% of its total income from commercial activities which in turn fund further digitisation projects to increase access, and the British Library, which will receive a royalty from commercial revenues earned by Gale through its partnership to digitise historical newspapers.

Demonstrating corporate social responsibility and benefits for the "greater good" are also key outcomes for many private companies. For example, the Cervantes Virtual Library has two key private sector partners which have charitable foundations. The Fundacion Telefónica "carries out important work in the field of art and culture. Within this framework, all of the projects promoted by the Foundation are designed with educational and learning objectives"[3]. Banco Santander, through Santander

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[3] Fundación Telefónica Annual Report 2006

Universities, has established a unique co-operation model with universities in Spain, Portugal and Latin America, providing stable and growing support to 985 universities. "Santander Universities also supports and develops other large and international projects arising from its work with universities over the years like the Miguel de Cervantes Virtual Library".[4]

Private sector partners in the Cervantes Virtual Library can deduct their charitable contributions against profits to reduce their corporation tax liability, as established by Spanish taxation laws.

Other EU countries, such as France and Italy, have also developed legislation aimed at supporting finance of cultural heritage through the provision of fiscal benefits to private partners. **The sub-group recommends that this type of existing provision is more extensively applied to digitisation projects**.

A distinction is often operated between the concept of donation (the private partner provides support without receiving any direct benefit) and the case of sponsorship (where the private partner receives a benefit in terms of branding/ advertising). Fiscal benefits for enterprises are normally higher in the case of donations, in order to increase the attractiveness of such schemes.

6.3. BENEFITS FOR CITIZENS

The primary benefit for citizens is increased, generally free online access to an unrivalled wealth of digital resources that previously may not even have been accessible in physical form, or only by physically visiting a cultural institution or local book store. Digitisation of these resources democratises knowledge and unlocks the heritage of great cultural institutions for everyone to enjoy and benefit from. Blind and partially-sighted and other print-disabled citizens can benefit from increased and better access to text when it is digitised as text. New creative endeavours can be inspired or result from access to digitised cultural heritage materials, whilst learning and tourism can also benefit.

Some public-private partnerships have ambitious goals for citizens; for example the Canada project aims to digitise all of Canada's published scientific and cultural heritage, across a wide range of formats. The project's guiding principles state that the Canada Project shall "provide maximum public access within a framework of respect for copyright" and that it will "reflect Canada's bilingual and multicultural reality".

Similarly, the Open Content Alliance was launched in 2005 with the goal of encouraging the greatest possible access to and re-use of collections, while respecting the rights of content owners. With more than 50 participating institutions, it currently holds more than 200,000 books from the public domain that can be read online or

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[4] Banco Santander Corporate Social Responsibility Annual Report 2006

downloaded. They also are available to any search engine for indexing and therefore can benefit all citizens regardless of the tool they use to find content online.

The Google-University of Michigan partnership is part of the Google Book Search programme which has the aim of "indexing the world's books and making them searchable and discoverable". As stated in the co-operative agreement signed between the parties, it has the strategic objective of "providing world-wide access to information; the public good of the diffusion of knowledge; and (to a lesser extent) the preservation of books".

6.4. BENEFITS FOR RIGHTSHOLDERS

The main benefit for rights holders is to increase significantly the visibility of their work and potentially the revenue that they can expect from it. This implies that users make some payment to access the works. Rightsholders may not be explicit partners in a PPP, although as content owners their co-operation is required.

This larger visibility and discoverability can be particularly important for works with a smaller target audience, and therefore less traditional exposure. Works which target niche audiences can benefit from the new discovery possibilities that digitisation and indexing offer; this is one of the key economic benefits of the internet. This ability to discover niche works can be hampered by exclusivity on accessing or indexing the digitised copy (see section 10.3 below).

For example, the partnership between the BnF and French publishers is intended to extend the traditional market for books to new audiences and therefore increase the market opportunity for publishers and authors.

There are significant differences of opinion between members of the sub-group as to whether the Google-University of Michigan partnership provides benefits for rights-holders. In the case study in Annex 2.4, Google states "By making books more discoverable, Google is enhancing the ability of authors and publishers to sell books to an audience beyond the traditional book market". This view is contested by the Federation of European Publishers, which believes that part of the Google Book Search programme, consisting of scanning in-copyright books of certain US universities, infringes the rights of publishers by not seeking prior permission to digitise and provide online access to excerpts of in-copyright works. This specific part of the Google Book Search programme is the subject of on-going litigation in the US and France.

6.5 ADDED VALUE TO USERS

Each case study demonstrates that digitisation projects can bring significant additional benefits to the user compared to access to analogue content only. These might include enhancement of the user experience through advanced search capabilities, especially if the content has been processed using optical character recognition software, allowing

full-text search by name, date, keyword and thus extending resource discovery from monograph or journal level to chapter, article or paragraph. The user can view (subject to copyright restrictions) content from their own desktop, without having to visit physically a library, museum or archive within its opening hours. Libraries, collections and items that have been dispersed over time can be virtually reunited and different states of objects, geographically separated, can be compared at the desktop. Different media – film and sound as well as books and manuscripts – can be brought together. Curatorial comment can be accessed easily at the same time and with Web 2.0 group curation becomes possible. Mass digitisation also creates a critical mass of materials that opens up the possibilities for new research using text-mining etc.

For example, the Cervantes Virtual Library includes content carefully selected by an expert team of academics. It is accessible by a unique platform and is organised in the same way as a typical library – in sections, by authors etc. There are linguistic tools to facilitate searching. Some of the multimedia content is signed to facilitate access by the deaf.

Gallica 2 (BnF and French publishers) gives access to in-copyright and out-of-copyright material via an integrated interface.

The case studies in Annex 2 of this report include further examples of the added-value to the user.

7. BUSINESS MODELS

The business models employed in the case study partnerships are varied and depend on the specifics of the project. They provide interesting examples of what works for the parties involved, and therefore provide a useful source of experience for cultural institutions in Member States to draw from.

- BnF and French publishers – this is a business-to-consumer (B2C) business model. Access to   public domain content will be free to the user; access to in-copyright material will be in the form of short extracts, with the specific agreement of the rights holder. Specialised sites will provide online browsing and full access to a protected document according to terms agreed by rights holders.

   Publishers will bear the digitisation costs and in most cases will digitise their own content, although the BnF could act as a digitisation service provider for small publishers. Public subsidy may be granted to publishers to digitise their books should the content meet the digitisation strategy of the BnF. e-retailers will have contracts with publishers which will define the prices to the user for online access to in-copyright e-books.

   The partnership will generate revenues for authors, publishers, content aggregators and e-book retailers through sales of e-books. The business model is under consideration, but the BnF and the French publishers have considered a range of

possible business models as outlined in annex 2 of the case study (Annex 2.2). The BnF and the French publishers commissioned a study of the range of business models available for e-books, from those applied by e-book retailer to digital library models. The BnF and the French publishers recommend that an e-book retailer model would be the best suited to access of full text content for a large potential customer base and a growing catalogue of titles. This could include access to the full text of a single title, a "pay per view" model for access to single chapters or pages, or a subscription model enabling access to packages of e-books, organised by subject or author.

The BnF and the French publishers also recommend that the model could be tailored by the publisher and aggregator, but that each publisher chooses only one single aggregator.

- The British Library-Cengage Gale partnership will deliver access to approximately three million pages of digitised newspaper content via the Cengage Gale platform via both business-to-business (B2B) and B2C models. Because some of the content digitisation was funded by JISC[5], access to this content by users in the UK higher and further education sectors will be free. Cengage Gale is able to commercialise the offering to other markets, for example in the US. It is anticipated that access to the scholarly user community will be via a subscription model. The general public will be charged a modest fee on a pay-per-view basis. The British Library receives a royalty on sales of newspaper content through the Cengage Gale platform, and this will be invested in further newspaper digitisation. As a result of this partnership, the public purse has not had to bear the considerable technical and infrastructure costs which would have been required had the British Library tried to achieve the project on its own. The business model is set out in a commercially confidential contract between the parties.

- The funding, costs and financial incentives to the partners within the Canada Project have not been finalised. Therefore there is no formal written agreement in place at this time. It is expected that a mix of government and private funding will drive the project; access to content will be free. However, the stakeholders recognise that funding, although critical, is only one aspect of the partnership. This is another B2C model.

- Funding of the Cervantes Virtual Library is mainly provided by the private and public institutions that sit on the organisation's Board. A framework agreement was set up with each of the founding sponsors, and once the Cervantes Virtual Library Foundation was established as a legal entity, similar agreements were established with the additional sponsors. The only financial incentive available to private partners is that they can reduce their corporation tax liability by deducting charitable contributions from their profits, according to Spanish law. Users can access the service for free via a B2C model.

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[5] JISC is the Joint Information Systems Committee in the UK (see www. jisc.ac.uk). JISC's activities support education and research by promoting innovation in new technologies and by the central support of ICT services.

- The B2C business model agreed between Google and the University of Michigan is set out in a publicly available co-operative agreement[6]. The University of Michigan provides its bound print collections to Google for scanning; all direct costs are borne by Google, including scanning costs, conversion and transmission of data, locating and re-shelving material. The University of Michigan receives a digital copy of the digitised works to use for its own purposes. It bears costs associated with the selection of material and internal project management. There is no payback for the University such as a royalty or revenue share. Google has pledged to make both search and a display of the search results free to the end-user.

- INA receives 60% of its income from the French government and earns the remaining 40% through commercial activities for professionals (a B2B model). As explained in the section 3 of this report, in 2000 it launched a major digitisation and preservation programme for its broadcast archives. This was financed initially through internal budgets. The government then made a significant financial contribution in order to accelerate the project and complete it by 2015. Professional users can search and select through www.inamediapro.com for contents hosted by INA. Since 2005 INA has launched broking and distribution agreements with more than 20 partners. Through INA's commercial broking services, the contents are available on INA's portal; INA receives a commission on transactions through the portal, but the responsibility for invoicing, rights management and content delivery remains with the external archive.
External archives can also deposit their assets with INA for commercial exploitation, effectively a distribution agreement. The distribution services provided range from complete management of the content from preservation to digital exploitation, to simpler forms such as storage and commercialisation only. INA is responsible for clearing rights, invoicing and content delivery. The revenues earned by INA are much more substantial and depend on the commercial agreement with the distribution partner. Public access to a selection of the content is available through www.ina.fr/archivespourtous.

- The Open Content Alliance has a B2C business model but there is no revenue stream to publishers or rights holders because it focuses on out-of-copyright material and orphan works. However, financial benefits are important due to the lowering of digitisation costs and free distribution of content. This is achieved through pooling of existing resources and competencies, particularly with respect to technology innovation. Funding has been provided by charitable foundations and through research grants, by organisations such as the Alfred P. Sloan Foundation, the Mellon Foundation and the State of California. Digitisation costs have been brought down to US$0.10 per page as a result of the co-operative efforts of Internet Archive and its partners. Libraries and search engines bear the reduced digitisation costs between them. The access and search infrastructure is provided at no extra cost for libraries by the open digital repositories network using their existing large-scale infrastructure and

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[6] See http://www.lib.umich.edu/mdp/umgooglecooperativeagreement.html

open source software. Open source development is used for search, browsing and transfer technologies, and new services like print-on-demand and scan-on-demand are being developed.

- The TNA – Find My Past Limited partnership combines B2B and B2C models. Both partners secure revenue from micro-payments, whilst the public can purchase copies and downloads, though there is free public access onsite at TNA

8. INTELLECTUAL PROPERTY RIGHTS

This section is meant to provide basic information to help partners in a PPP agreement to make an informed decision concerning the digitisation of works and their making available through online access within the framework of PPP agreements.

1.*Existing works to be digitised.* At the outset, the partners need to consider whether the work has fallen into the public domain or, alternatively, is still protected by copyright or by related rights (including "typefaces", as far as the UK is concerned). As copyright follows the principle of territoriality, the corresponding analysis must be conducted in accordance with all the relevant jurisdictions of the countries in which either digitisation or access (by way of communication or making available to the public), or both, take place. For present purposes, only European Union rules shall be considered.

While the duration of copyright protection in the European Union is as a rule 70 years *post mortem auctoris*, it may differ depending on the type of rightsholders and works. E.g. typefaces are protected for 25 years after publication, even in connection with works otherwise in the public domain.

If the work was created by a single author who died more than 70 years ago, then the digitisation and making available of the work can generally be undertaken without asking permission of the former right-holders.[7] If on the contrary the author of the work died less than 70 years ago, the PPP partners have to consider the applicable national copyright legislation, including recent amendments deriving from a set of copyright Directives (mainly the Term Directive, the Database Directive and the Copyright in the Information Society Directive) in the European Union.[8]

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[7] Term Directive http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0116:EN:NOT
Please bear in mind that if the author is dead for more than 70 years but an unpublished work is found then Article 4 is triggered
Protection of previously unpublished works
Any person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work, shall benefit from a protection equivalent to the economic rights of the author. The term of protection of such rights shall be 25 years from the time when the work was first lawfully published or lawfully communicated to the public.

[8] Term Directive (see above)
Database Directive http://ec.europa.eu/internal_market/copyright/prot-databases/prot-databases_en.htm
Database right may protect (i) under copyright law the selection or arrangement of the items which go into the data base; (ii) under the *sui generis* right the content (against extraction of a substantial part of the data base).

Digitisation taking place in the context of PPP involves the exclusive right of reproduction (Article 2 of the Copyright in the Information Society Directive). This exclusive right is subject to copyright exceptions. One example of such exceptions is Article 5.2.c of the Information Society Directive, which permits cultural establishments (publicly accessible libraries, educational establishments or museums, or archives, which are not for direct or indirect economic or commercial advantage) to make specific acts of reproduction.

Under current EU legislation, providing online access to copyright protected works that have been digitised, involves the exclusive right of communication to the public, including the making available right. This exclusive right may be subject to exceptions. For example, the exception in Article 5.3.n of the Information Society Directive permits cultural establishments to provide access within their premises.

Article 5.3. of the Information Society Directive includes a number of other exceptions to the right of reproduction and of communication/making available which might be applicable.

As earlier indicated, different legal regimes would be applicable to PPP agreements outside of the European Union, which may have different rights and exceptions.[9]

All the exceptions referred to above apply to the extent provided by national laws. Under the three-step test under the Berne Convention, incorporated by Article 5.5 of the Information Society Directive, the relevant exceptions "shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the right-holder".

Therefore if partners to a PPP agreement want to provide online access to copyright protected works, they first need to find out about the status of the work.

Where the rightsholder can be found and use of the work requires a licence, that licence needs to be negotiated with the right-holder. This can be particularly complex with audio-visual materials where multi-territoriality issues may arise.

2. *Orphan Works, Out of Print Works.* According to the solutions considered in the Report on Key Principles on Orphan Works and Out of Print Works, if the work still is in copyright and if the rightsholders cannot be identified or are untraceable after conducting a diligent search, then the work is considered as "orphan" and solutions are being considered which are to be deployed at national level.

According to the solutions proposed in the Report, if the work still is in copyright and is no longer being commercialised – whether offline or online –, rightsholders and libraries

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Copyright in the Information Society Directive http://ec.europa.eu/internal_market/copyright/copyright-infso/copyright-infso_en.htm
[9] For instance, fair use, where applicable, as far as the USA are concerned.

as one option may resort to this model licence attached to the Report and intended contractually to enable the provision of access to the work.

3. *New rights*. New rights may arise in connection with the process of digitisation. Digital reproduction itself may in certain circumstances generate an additional layer of copyright protection, e.g. the insertion of the tags, tokens and mark-ups which classify the semantic role of pre-existing strings of words. Creative components of indexation, e.g. the underlying algorithms, might also attract specific IP protection independent of any digitised work, such as protection under trade secret law. Database law may also come into play.

Similar issues may arise in connection with metadata, meaning information about individual items subject to digitisation. In certain jurisdictions, the metadata classifying information concerning the origin of a given work, its status, its content, the place where the original is available, etc. may attract independent copyright protection. Even the templates into which uniform metadata are inserted may in certain cases be considered copyrightable works.

In the context of PPP, partners should consider who owns the rights that may be created in connection with digitisation and with the creation of corresponding metadata (if any) and under which conditions these new rights may be exploited, within the PPP project and beyond it. They should notably consider IP rights in material created on their behalf by third parties, including employees and contractors.

Ideally, new rights should neither restrict the freedom to use works already in the public domain nor decrease the degree of freedom enjoyed by copyright protected works. To make sure that this goal is reached, prior contractual arrangements between the PPP parties as well as between each parties and its employees and contractors is advisable. The partners may also wish to make sure that the solutions they adopt are interoperable, technologically and legally, with the other initiatives.

Case studies. Several of the case studies involve a mixture of in- and out- of copyright materials. The Canada project will provide free access to public domain and public sector content, and a growing body of rights-cleared in-copyright content. Although details of the intellectual property issues have not yet been worked out, it is a principle of the project that there will be no transfer of content ownership or copyright between any of the partners. It is expected that digitised versions of out-of-copyright material will remain in the public domain**.**

Similarly, the partnership established between the BnF and French publishers (as part of Gallica 2) combines public domain and in-copyright content. The publishers will retain control of the use of content for which they have acquired IP rights from authors. The explicit agreement of the rightsholders will be required to retrieve their content via the portal.

In the Google-University of Michigan partnership, in the USA legal regime, both public domain and in-copyright material will be scanned but the way the books are made available to users will differ depending on their copyright status. If a book is out of copyright, then it will be available to users in its entirety through Google Book Search. If it is in copyright then users will receive basic background information on the book through Google Book Search; two or three excerpts where the words searched appear and information on where to find it in a library, or where it can be purchased. Google states in Annex 2.4 that it "makes use of intellectual property that is fully consistent with fair use and the principles underlying both local and international copyright law". However, publishers and Google disagree on the legality of both the digitisation itself and subsequent online access to excerpts of in-copyright books. This is the subject to litigation in the US and France.

The partnership between the BnF and France Telecom may lead to software development: intellectual property rights in this need to be addressed to enable the results to be integrated into BnF online services.

The sub-group recommends that the guiding principle is that partnership should be established within the framework of applicable copyright law.

9. PROTECTION OF THE PUBLIC DOMAIN

Public domain information refers to out-of-copyright works. It is essential that public domain information digitised in the context of PPPs remains accessible for all[10].

As for in-copyright material, the simple making of a digital copy of a work in the public domain, does not change its public domain status, both in the analogue and in the digital environment.

While public-private partnerships can be enormously successful and may offer major benefits to partners and citizens, they are not right for every cultural institution. Some public sector institutions see it as their mission to protect state ownership of the cultural assets of the nation and do not allow them to be exploited for commercial gain. They may view partnerships with the private sector, particularly if paid-for access is involved and re-use rights are granted on an exclusive basis, as enabling the privatisation of public knowledge.

Other cultural institutions view digitisation projects as providing an additional service, which would not have been available to users without private-sector funding. They may believe a fee to help cover the costs of digitisation is both justified and necessary. They point out that the underlying content remains in the public domain.

An example of this is the British Library-Cengage Gale partnership, through which Cengage Gale has a licence to commercialise out-of-copyright digitised content to certain

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[10] Viviane Reding, minutes of the 3rd plenary session of the HLEG on digital libraries, 18th April 2007

market sectors, for a limited period. Following this period the licence expires and the rights to exploit the digital content revert to the British Library. Access to the digitised 19-century newspaper content would not have been possible without the investment and access platform provided by Cengage Gale as British Library funds for digitisation are limited by the available government funding.

There is a great deal of sensitivity regarding commercialisation of public domain content through digitisation, and widely opposing views. The law in some Member States may not allow commercialisation of public sector assets. Some governments may offer significant investment for digitisation projects, so there may be no need for commercial business models to fund the project. It is for cultural institutions to decide their own opinions on this point and act accordingly, while respecting a number of basic principles outlined in this report.

The sub-group recommends that public domain content in the analogue world should remain in the public domain in the digital environment. If restrictions to user's access and use are necessary in order to make the digital content available at all, these restrictions should only apply for a time-limited period.

10. EXCLUSIVITY

The sub-group has identified three levels of exclusivity in PPPs: exclusivity of partners, content and search/ access.

The sub-group recommends that exclusive arrangements for digitising and distributing the digital assets of cultural institutions are to be avoided.

This should be balanced with the need for the PPP to provide the level of incentive for private partners to engage in digitisation and making available the assets of cultural institutions.

10.1 EXCLUSIVITY OF PARTNERS

All the partnerships considered through the case studies in this report are non-exclusive in that partnering with one organisation does not preclude the parties partnering with another.

For example, the British Library-Cengage Gale partnership is non-exclusive in that the British Library can establish partnerships with other players to digitise newspaper content. The partnership was established through an open tender process according to EU procurement rules.

Other case studies involve collaborative arrangements with a broad range of different public and private sector players. For example, the Canada project was established with three founding partners as stated in section 3, but further discussions are being

held with other corporate organisations, research libraries and archives, governmental organisations, publishers, authors groups and heritage organisations. Similarly the Cervantes Virtual Library was set up with a small number of founding partners but has grown to include contributions from nine public sector and eight private sector organisations. New organisations may join the project with the agreement of the Board.

However, the BnF-French publishers' partnership does involve a level of exclusivity as publishers are supposed to choose only one aggregator to work with, for practical reasons. This relates to in-copyright material.

10.2 EXCLUSIVITY OF CONTENT

Some PPPs may involve a level of exclusivity regarding the content that is being digitised – that the partnership prevents the public-sector institution digitising its copies of the content with another private-sector provider. Timing is important and exclusivity may be necessary for a limited period of time, notably when otherwise the content would not be available to the public. This exclusivity provides a commercial advantage to private-sector players, as there would be a disincentive to private partners to invest when they have limited prospects of realising a commercial return. Cultural institutions need to bear in mind that private sector organisations generally have to demonstrate the added-value of new services for users and the subsequent creation of value for shareholders through a cash-flow stream.

An example of this is the British Library-Cengage Gale partnership through which Cengage Gale has an exclusive licence to use the digitised newspaper content via its platform for a limited period of time, and therefore create a commercial opportunity (subject to restrictions based on the digitisation agreements with other stakeholders).

Cultural institutions can consider the use of a creative commons licence if they wish to allow digitised content to be available for re-use.

10.3 EXCLUSIVITY OF SEARCH/ ACCESS

The third level of exclusivity which may be established through partnerships is that of search/ access. PPPs involving search engines financing digitisation of content may limit search on the resulting digitised copies to specific search services to prevent them from being indexable by other search engines. Making digitised copies of content searchable through a search portal increases the added value of the service for users, thereby increasing the incentive needed for private partners to engage in digitisation of content. (Note that access to the content itself depends on its copyright status).

In the Google-Michigan partnership, the University of Michigan library receives a digital copy of the digitised works to use for its own purposes. The co-operative

agreement between the parties states that the University of Michigan agrees to restrict automated access to the digital copies created, and to prevent third parties from downloading the digital copies for commercial purposes, or redistributing them. This does not prevent other search engines from making their own digital copy of the content to make it searchable through their own platform, but would prevent them from crawling and indexing the digitised copies made in the context of the Google-Michigan partnership.

The stance taken by the Open Content Alliance is to establish non-exclusivity of search and access. Search engines participating in the project must be willing to provide open search of the digitised content. Development of new search tools and indexing techniques can happen therefore independently of partner search engines.

The European Digital Library has stated as an objective that it will make content searchable through any search engine so as not to distort or limit access. Again it is for cultural institutions to decide which approach is the best one for them to take to provide maximum benefits to users and citizens.

11. RE-USE OF DIGITAL COPIES

Directive 2003/98/EC[11] sets out specific rules for the re-use of public sector information[12] which applies to digitised content, and came into force on 1st July 2005. Re-use is defined in the Directive as "the use by persons or legal entities of documents held by public sector bodies, for commercial or non-commercial purposes other than the initial purpose within the public task for which the documents were produced". The Directive notes that "public sector information is an important primary material for digital content products and services". Re-use therefore includes the use of public domain digitised content in products and services such as search, research tools, incorporation into third party products and services, and so on.

The Directive states that:

- Member States shall ensure that public sector documents shall be re-usable for commercial or non-commercial purposes (subject to copyright of third parties and data protection laws)
- Where charges are made for re-use, the total income from supplying and allowing re-use shall not exceed the cost, together with a reasonable return on investment
- That if a licence is required for re-use of the document, the licence shall be open and transparent

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[11] See http://ec.europa.eu/information_society/policy/psi/docs/pdfs/directive/psi_directive_en.pdf
[12] Public Sector Information (PSI) is defined as documents, databases and other information (meteorological information, digital maps, traffic data, etc.) produced, collected, stored, etc. by public sector bodies http://ec.europa.eu/information_society/policy/psi/what_is_psi/index_en.htm

- The re-use of documents shall be open to all potential players in the market; contracts between the public sector body holding the documents and third parties shall not grant generally exclusive rights.
- However, where an exclusive right is necessary for the provision of a service in the public interest, the validity of the reason for granting this right shall be subject to regular review, at a minimum of every three years. Moreover, the agreement should be transparent and made public.

At the time of writing, the Directive specifically excluded documents held by educational and research establishments, and documents held by cultural institutions, such as libraries, museums and archives. **However, the sub-group recommends that cultural institutions should aim to abide by the Directive**.

12. LONG-TERM SUSTAINABILITY & TIMEFRAMES

In order for digitisation projects to provide ongoing benefits for all the parties involved, the sub-group agrees that they should be sustainable in the long-term. In all of the case studies we considered, the parties considered sustainability to be either an explicit or implicit objective; and the partnerships were envisaged for the long-term.

For example, the British Library has achieved sustainability of its newspaper digitisation project by allowing its partner Cengage-Gale to charge a pay-per-use or subscription fee to certain markets, with a royalty payment back to the British Library. Any income to the British Library will be ploughed back into further newspaper digitisation, ensuring that product can be expanded and developed over time. The partnership is renewable after a certain period of time.

In addition, sustainability generally also applies to the need to preserve digital material for the long-term, and to support long-term access. The sub-group recommends that partners should consider the full lifecycle costs of digital content when establishing digitisation partnerships. Costs may arise through collection, description, production and dissemination, as well as long-term storage and preservation.

As another example, The Canada Project intends to digitise all of Canada's extensive published and scientific heritage, with a guiding principle that content should be created and maintained "according to standards that support preservation and very long-term access"[13]. The case study notes that in terms of the length of the anticipated partnership, "five years may not suffice".

With the Cervantes Virtual Library, partnership agreements are generally signed for a period of 4 years, but the life of the project is seen as being much longer.

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[13] Annex 2.6 - The Canada Project: Library and Archives Canada

13. GOVERNANCE

Formal governance is necessary for PPPs because the objectives of the partners – shareholders, rightsholders and public – may create tensions. The PPPs illustrated by the case studies annexed to this report make use of, in most cases, formal governance arrangements enshrined in a formal contract between the parties. These contracts should set out formally the key terms of agreements between the parties on the issues illustrated in this report - for example, exclusivity, the exact contribution of the parties and the term of the agreement. An area for attention is branding: public partners often do not communicate their brand in many PPPs in the same way as private partners. A contractual framework allows their brand to be protected and communicated in the way that both partners want.

Formal contractual arrangements may be necessary to ensure that participants are clear on their rights and obligations in digitisation projects.

The management of digitisation projects should be set out in clear and transparent governance arrangements so that ongoing issues can be resolved and managed on a timely basis.

The 'Cooperative agreement' between Google and the University of Michigan covers the purposes of the agreement, definitions, responsibilities, costs borne by the partners, ownership and use of digital copies and services, access, authorization and support, confidentiality, marketing, terms and termination, warranties and disclaimer, indemnification and liability.

The standard Licensed Internet Associateship (The National Archives) agreement in addition has specific schedules for acknowledgements, provision of hyperlinks, deliverables and milestones timetables, service specifications and reporting, service level agreement and trade mark licence.

The sub-group recommends that PPPs have formal governance arrangements enshrined in a formal contract between parties.

14. LANGUAGE AND MARKET SIZE ISSUES

All of the PPPs researched through case studies deal with major global languages: English, French and Spanish. At present, the sub-group has been unable to find examples of successful PPPs for digitisation in member states with languages spoken by a much smaller number of people. There are a number of potential reasons for the lack of PPPs in these countries:

- In order to recoup a satisfactory return on investment, private sector firms need to be able to reach a minimum number of users, which limits commercial business models to large geographic areas or languages spoken by large volumes of people

- Public sector organisations tend to be less encumbered by regulations preventing private investment in countries which have embraced de-regulated markets and open competition
- Cultural institutions tend to attract government funding for digitisation in smaller countries with lower volumes of legacy content to be digitised, such as the new EU member states in Central and Eastern Europe.
- Moreover, in the new EU member states, the generally smaller size of private firms compared to those in established member states may mean that private firms have reduced access to capital.

There are certain to be exceptions to these generalisations, and the sub-group welcomes case studies outside these major language groups for inclusion in this report.

15. CONCLUSIONS

Although the research into case studies by the sub-group has not been exhaustive, it is clear that PPPs are not widespread within the cultural sector in Europe. Certain cultural institutions are sensitive to a risk of privatisation of public domain material. Moreover, there are several potential barriers to establishing PPPs, despite the potential benefits; some of these, such as the need for private sector partners to ensure a commercial return on investment, language and market size issues have been explained above. Public and private partners may have competing and contradictory demands on their activities which must be balanced to create a successful partnership, bringing maximum benefits for users and citizens. Because PPPs are not widespread in Europe, public sector institutions may not have the negotiation skills required to deliver the best outcomes. This is changing as public sector institutions recognise that they need to recruit a mix of public- and private-sector expertise to take these partnerships forward.

Most of the partnerships we have investigated are still in their preliminary stages of development, and therefore it is too early to make general conclusions as to the key elements of success. However, in conclusion the sub-group makes a number of recommendations as to critical success factors, as follows:

- Partners clearly state their strategic objectives and the benefits for the citizen to be achieved through the project
- The partnership fully utilises the experience and expertise of the partners, and brings complementary contributions
- The partnership maximises public access and takes into account long-term preservation and sustainability issues
- The partnership operates within the framework of applicable copyright and intellectual property law
- The partnership does not establish exclusive agreements. Where exclusive agreements are necessary to provide a service in the public interest, that such exclusive arrangements are time-limited, regularly reviewed and transparent.
- The partnership is transparent, accountable, and managed through a formal governance structure

- The partnership is formally established through a memorandum of understanding or contract.
- Public domain content in the analogue world should remain in the public domain in the digital environment. If restrictions to user's access and use are necessary in order to make the content available at all, these restrictions should only apply for a time-limited period.

The sub-group recognises that PPPs can deliver major benefits for the partners, citizens and rights holders. The sub-group recommends that public institutions actively engage with private institutions as an option to achieve mass digitisation projects; however partners must fully consider their own unique objectives and circumstances before doing so. A full check list of the potential issues to consider is included at Annex 3; this draws on the case studies and the experience of the sub-group members.

The sub-group would like to thank all the organisations who submitted case studies, the stakeholders consulted, and the European Commission for their help in the preparation of this report.

ANNEX 1 – MEMBERS OF THE SUB-GROUP ON PUBLIC-PRIVATE PARTNERSHIPS

Dame Lynne Brindley, Chief Executive, British Library (Chair)

Anne Bergman-Tahon, Director, Federation of European Publishers

Lucie Burgess, Head of Strategy and Planning, British Library

Stephen Bury, Head of European and American Collections, British Library

Julien Masanès, Director, European Archive

Patricia Moll, European Policy Manager (substituted by **Antoine Aubert),** Google

Daria Nałęcz, Prof. of History, Polish Academy of Sciences & Pultusk Academy of Humanities

Elisabeth Niggemann, Director General, Deutsche Nationalbibliothek

Luis Rodríguez, Institutional Relations Director, Fundación Biblioteca Virtual Miguel de Cervantes

Lucien Scotti, Director for European and International Affairs, Bibliothèque nationale de France

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Stéphanie Van Duin, Director of Business Development, Hachette Livre

Secretariat: Luca Martinelli, Principal Administrator and Policy Officer, European Commission

ANNEX 2 – CASE STUDIES

ANNEX 2.1   **Biblioteca Virtual Miguel de Cervantes (Cervantes Virtual Library)**

ANNEX 2.2   **Bibliothèque nationale de France and Syndicat National de l'Edition, France (BnF and French Publishers) (An experiment within Gallica 2)**

ANNEX 2.3   **British Library and Thomson Gale (British Library and Gale)**

ANNEX 2.4   **Google and the University of Michigan (Google – Michigan project)**

ANNEX 2.5   **Institut National de l'Audiovisuel, France (INA)**

ANNEX 2.6   **Library & Archives Canada, Open Text Corporation and the University of Waterloo (The Canada Project)**

ANNEX 2.7   **The Open Content Alliance**

ANNEX 2.8 The National Archives (TNA) and Find My Past Limited (Licensed Internet Associateship)

ANNEX 2.9   **Bibliothèque nationale de France – France Telecom**

Annex 2.1.

Biblioteca Virtual Miguel de Cervantes

1. Key players

- Please include here a brief explanation of the players involved in the partnership and overview of their role and key activities:

According to its founding statutes, the main support of the Foundation structure is the **Patronato** (Board of Trustees or Sponsors). This Board is composed of diverse institutions and corporations, from both the public and private sectors. Amongst these, we can highlight the original sponsors: Banco de Santander, Fundación Marcelino Botín and Universidad de Alicante. The Board is the responsible entity in charge of the fulfilment of the goals of the Foundation. The list of the patrons is as follows:

Public Partners
    Universidad de Alicante *(Alicante University)*
    Ministerio de Cultura *(Ministry of Cultura)*
    Ministerio de Educación y Ciencia *(Ministery for Education and Science)*
    Ministerio de Trabajo y Asuntos Sociales (*Ministery for Labor and Social Affairs)*
    Secretaría de Estado de Cooperación Internacional *(Secretary of State for International Cooperation*)
    Generalitat Valenciana (*Regional Governement of Valencia*)
    Conferencia de Rectores de las Universidades Españolas (*Conference of Deans of Spanish Universities*)
    Real Academia Española (*Royal Academy for Spanish Langugage)*
    Instituto Cervantes (*Cervantes Institute*)

Private Partners
    Banco Santander
    Fundación Marcelino Botín
    Telefónica
    Grupo PRISA *(Media)*
    Repsol YPF
    Fundación Germán Sánchez Ruipérez
    Federación de Gremios Editores de España (*Spanish Editors' Association*)
    Universia (*internet portal for Universities)*

There is also a different entity – the Scientific Committee – with several functions related to the contents of the Virtual Library. Specifically, this committee is responsible for the design and conceptual definition of the Library itself, leading and supervising content programming, and thus ensuring a high scientific quality of content within the Library.

The Scientific Committee is an advisory committee comprising 12 members, all of whom are experts in different areas concerning the works of the Virtual Library: philology, librarians, internet technology, linguistic, literature, history etc.

- How was the partnership established – e.g. did a formal selection of the partner take place or was the partnership a natural evolution of an existing relationship?

The original sponsors were responsible for defining the profile of members who would progressively become members of the Board. The main criterion used during the selection process was the degree of affinity of each member with the goals and scope of the project, namely the development of the Miguel de Cervantes Virtual Library.

Accordingly, different institutions were identified and were invited to be members through a formal approach process. Once decided, the institutions/ corporation, etc. are represented at the highest level.

- Was the partnership exclusive or non-exclusive?

In no case whatsoever are the collaborative relationships established between the Foundation and its partners of an exclusive nature. In our understanding, the magnitude and scope of this kind of project is improved and bettered by a participation that is as open and collaborative as possible. In fact, the notability and renown of the institutions that are part of the Foundation has been achieved through their participation and experience in widely diverse cultural projects of high relevance.

2. Objectives

- What did the partnership aim to achieve?

The common goal of the Foundation members is set by the Foundation statutes, namely the "continued development of the Miguel de Cervantes Virtual Library so that it can be used as an optimal tool to support the expansion of Spanish and Latin American culture across the world, through the use and application of the most advanced technological means to the most relevant works of the Hispanic literature, science and culture".

In some cases, part of the funds provided by the sponsor is dedicated to a specific activity; for instance, Telefonica has sponsored the Abbey of Montserrat for several years. This Abbey, located in Cataluña, is very well renowned for its library which contains a huge amount of old documents and books, very much appreciated by researchers. Among the three institutions (Telefonica, the Abbey and the Virtual

Library), we agreed to allocate part of the funds from Telefonica for digitising a number of books from the Abbey.

- What were the strategic objectives of the partners and how closely did they align?

  The goal of the Foundation (thus shared by the Library) was to create a web space to enable the spreading of Hispanic cultures. The continued membership, involvement and continuity of both professionals and institutions who collaborate in the Virtual Library is the best possible way to express the achievement of our goals, for our partners and the Foundation alike.

  As a part of its corporate social responsibility, Telefonica has its own Foundation which "carries out important work in the field of art and culture. Within this framework, all of the projects promoted by the Foundation are designed with educational and pedagogical characteristics" (source: Fundacion Telefonica Annual Report).

  Another case: "the Fundacion Marcelino Botin (Marcelino Botin Foundation) is developing innovative projects –the Responsible Education, Technological Transfer and Heritage and Land Programmes- in three areas of strategic action: Education, Science and Sustainable Development. Additionally, it collaborates in the development of initiatives planned and managed by other specialized institutions with social, health and cultural objectives, such as the Miguel de Cervantes Virtual Library" (source: Annual Report).

  In the case of Banco Santander it must be stressed that "the Santander Universities Global Division, has established a unique cooperation model with universities in Spain, Portugal and Latin America, providing stable and growing support to 985 universities. Santander Universities also supports and develops other large and international projects arising from its work with universities over the years like the Miguel de Cervantes Virtual Library" (source: Corporate Social Responsibility Annual Report).

3. Contribution of the parties

- What did each of the parties contribute to the partnership?

  From an operating point of view, each member of the Board and the Scientific Committee has an active participation (scientifically or institutionally), as was defined in the first section of this document. However, it must be noted that the economic resources necessary for the development of the Library are mainly provided by the institutions and key corporations that belong to the Board.

  For an example, also see nbr. 2 above (Objectives, 1st question).

Were there any other key stakeholders in the project or programme, and if so, what was their contribution?

The Foundation is responsible for fund-raising activities. To this end, it is in charge of developing projects which are then presented to public and private, cultural and non-cultural organizations which sponsor financial aids and subventions. This ensures a certain income that is added to its yearly resources. However, this extra income is neither predictable nor continuous and is normally used in specific projects for the improvement of the Library.

According to their relationship with the Foundation, we can include our partner entities in one out of three collaboration categories (see list of partners in nbr. 1 Key Players):

- Cultural entities which provide financial aid.
- (Mainly) Private corporations which are economically involved in the development of the Library.
- Partnerships with other cultural institutions which see www.cervantesvirtual.com as an excellent support for cultural communication and diffusion, and that have similar goals and user profiles.

4. Benefits

- What were the key benefits to the cultural institution and private sector player?

The common benefits, both for our institution and for our sponsors/partners, are related to the participation in an international cultural project such as the Miguel de Cervantes Virtual Library, which has become the cultural reference on the Web for teachers, students, researchers, philologists and the Spanish-speaking community in general.

The renown, magnitude, image, preminence and national and global positioning achieved are highly beneficial values to those private entities members of the Foundation, and also to those that develop commercial exchange activities or institutional relationships.

- What were the public good aspects of the partnership, and benefits to the citizen?

The general benefits to citizens could be summarized as "universalization of education and culture" and "socialization of knowledge in an interactive way, within a multicultural international environment".

It must be stressed that the Virtual Library provides free access: no fee is charged in any case.

- How were these benefits articulated and communicated to key stakeholders?

The Foundation is permanently involved in communication initiatives.

On one hand, two bulletins are distributed. One of them, directed to the end-user, is adapted to his/her areas of interest and is composed and delivered online in digital format. The second one is sent to the sponsors, members of the Board and the Scientific Committee and other people of interest and relevance to the Foundation (mainly related to the educational and cultural sectors), in written format.

On the other, the Foundation carries out information and communication campaigns in newspapers, websites and cultural fora.

5. Business model

- What were the key constituents of the revenue and cost model?

  Both the Foundation and its development are made possible, mainly, thanks to the financial support provided by some of the 17 institutions members of the Board. This is the configuration of their contributions (monetary). All the contributions are included in the formal (written) agreement established with each partner.
  - Four of the sponsors provide annual contributions, (these being the original sponsors who provide the larger part of the contributions for developing the Virtual Library), always according to the collaboration agreements that were established with each particular institution.
  - Three other public sponsors collaborate too, via public funding, which differ in periodicity, character and time scope. These resources are normally used to improve the contents programme, for promotion activities, etc.

  The three sponsors taken as an example contribute annually with an amount of money, included in the terms of agreement.

- How did the private sector partner monetise the project or activity?

  Private corporations and, members of the Board can deduct their contributions from Corporate Tax, as established by current tax laws.

  On occasion, especially in projects developed with public funding, the donating (public) organisms require the private partner to share intellectual property for the project deliverables, and also for the public funding agent to mention explicitly all actions carried out as a result of the granted funds.

  All the contracts have specific terms depending on the partner and so they are not publicly available.

- Was there an equivalent pay back for the public institution such as a royalty payment or revenue share?

(See above)

- Which costs did each party bear?

  There is not a split of costs allocated to each institution of the Board.

- Were there any financial incentives or penalties included in the partnership, and what form did these take?

  Participation and support are regulated in the agreements, but the only financial incentive is the above-mentioned tax deduction.

- Was the business model clearly stated in a written agreement, and if so, what were the key terms?

  Initially, when the Library was started up, there existed a framework agreement with the founding sponsors. In this agreement, it was established how each entity would be involved in the Library project. In a later stage, once the Foundation was legally established (to provide institutional, legal and management support to the Library), similar agreements were established with the additional Sponsors.

6. Ownership of intellectual property

- *N.B. This section is again intended to be descriptive and should be disclosed only with reference to commercial sensitivities and without breach of confidentiality*
- What were the key intellectual property issues, and how were they dealt with?

  Most of the digitized documents are in the public domain. Some others with intellectual property rights have been bestowed to the Foundation from their authors or rights holders, via written statements according to the current Intellectual Property Rights Laws.

- What were the key copyright constraints, and how were the appropriate permissions obtained from rights holders?

  In general, and except in very few cases, the contents are bestowed upon us to be used exclusively for online distribution via www.cervantesvirtual.com, always with non-restricted access.

7. Governance

- *N.B. This section is again intended to be descriptive and should be disclosed only with reference to commercial sensitivities and without breach of confidentiality*
- How was the partnership governed and how were the relationships managed to ensure that the partnership fulfilled its aims and objectives?

The management team is responsible of the daily operations. The strategic decisions must be approved by the Board of Trustees. There is also a sub-group of Patrons that meets every three months for supervising the work of the management team.

- What was the form of the partnership, e.g. informal, formal, licence-based, joint venture, commercial agreement, etc?

  Written agreements are set up with each sponsor with the specific conditions of the collaboration.

- Were the principles of the partnership clearly stated in a written agreement, such as a contract or memorandum of understanding? If so, how was this structured and what were the key terms?

  Written agreements usually include:

  - general description of the collaboration.
  - specific details referring to the economic or scientific contribution, duration, non-disclosure, intellectual property rights…

- What was the mechanism for dispute resolution?

  A follow-up committee is considered in the written agreements for the daily follow up of the partnership and, if necessary, for dispute resolution (up to date, never has been utilized).

8. Termination and exit

- What was the length of term of the partnership, and the mechanism for terminating once the project or programme was complete?

  As a general rule, four years is the duration of the agreement. Although in some specific cases, only an annual renewal is possible.

9. Critical success factors

- How was success defined and measured?

  From the beginning, different quantitative and qualitative criteria have been used.

  Quantitative:

  - Number of users, number of pages downloaded, nbr. of susbcribers to the news bulletin,

- Corporate: nbr. and value of subventions from public institutions, nbr. of links, nbr. of collaboration proposals received.
- Nbr. of books, documents, etc. digitized.

Qualitative:

- Communication about and positioning of the Virtual Library in different fora of the cultural, educational and library sectors.
- Seminars, Congresses, at national and international levels, in which the Foundation participates.

There are no specific critical success factors for each partner. As it has been explained, for the three sponsors taken as an example, their collaboration is a consequence of their corporate social responsibility policy.

- Was the partnership successful, and if so, what were the key factors that contributed to this success? Examples could include an alignment with strategic objectives, a good personal relationship between the parties, strong financial incentives

The most obvious proof is the loyalty of both the users and the institutions.

- Board of Trustees: extended collaboration for years.
- Collaborators: constantly offering help for new projects.
- Excellent positioning before the civil society.
-

10. Risks and issues

- What were the key risks to the parties and the success of the partnership, and how were these managed and mitigated?

As the Foundation is a nonprofit organization, all the developments with economic impact are, in the yearly plan, strictly linked to the expected forecast of the year.

- Were there any conflicts between the activities of the partnership and the hosts, and how were these conflicts overcome?

None.

Annex 2.2

Bibliothèque nationale de France – French publishers partnership

Key players

The partnership is between :

- the Bibliothèque nationale de France (BnF) ;

- publishers willing to participate in the experience (see list in annex 1) ;

- e-retailers (Numilog, Cyberlibris, Tite-Live, La Documentation française, Cairn, Gallimard, Editis, i-kiosque, Sofedis, Minitelorama/Edilivre, HDS Digital) chosen by the publishers ;

- and, in the future, e-booksellers (general or specialised).

The partnership was established as the evolution of an existing relationship, i.e. a joint BnF-SNE[14] working group on possible business models for including copyrighted material in a common search portal combining public domain documents and copyrighted material.

The **BnF** has issued an indicative documentary policy document for the future common platform, covering both public domain and copyrighted works. It has also prepared technical specifications for the e-retailers (OAI compliance and repositories, metadata for book indexing, etc.). Lastly but not least, it has developed an experimental platform within its *Gallica2* digital library including a search engine able to search both public domain and copyrighted works in a common index as well as functionalities for providing first access to those documents.

For public domain material, the users will be able to access and download the full text, whereas for the copyrighted material, the users will have free access to cover pages 1 and 4, to the table of contents and, in some cases, a summary (depending on the publishers' agreement). If the users wish to have access to the full content, they will be redirected to the e-retailers websites.

The **publishers** will select the books (under copyright) they want to include in the platform and will digitise them. Digitisation according to technical specifications is delivered to the BnF directly by the publishers.

A set of **e-retailers** has been selected based on technical specifications and presence on the market. A working group including IT people from the BnF and the e-retailers has been set up to guarantee the efficiency of the service and to set up the adequate interfaces. The e-retailers will have contracts with the publishers by which they define together the fees for accessing the copyrighted documents put online in case a user is

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[14] *Syndicat National de l'Edition (French Publishers Union)*

interested in purchasing the electronic version of the book, using secure DRM procedures.

The partnership is non-exclusive in the sense that any publisher/distributor is free to join other search platforms.

Objectives

The partnership aims at setting up a single and common platform, combining public domain documents and copyrighted material, designed to test the business model proposed in the study ordered jointly by the BnF and the SNE (see annex 2).

What were the strategic objectives of the partners and how closely did they align ?

For the BnF, the objective is to increase the number and type of documents put online on a digital library ; for the publishers, it is to increase the visibility of their products while testing new distribution models by offering copyrighted material online.

Contribution of the parties

What did each of the parties contribute to the partnership ? (see above)

Benefits

The key benefits to the cultural institution and private sector players are the following :

- for the BnF : to complement the online offer of public domain material with copyrighted documents according to a pre-established documentary policy ;

- for the publishers : to promote their books, to increase their visibility, to make profitable the access to full texts, to retain control on their collections ;

- for all parties : to include all the actors of the book chain (authors, publishers, booksellers, e-retailers, libraries, readers, etc.)

The way the project has been designed is fully respectful of intellectual property and copyright laws. The public good aspects of the partnership, and benefits to the citizen are an increase of the online offer of titles, with due respect to the intellectual property rights.

These benefits are articulated and communicated to key stakeholders through the joint working group.

Business model

The project aims precisely at experimenting a viable and sustainable business model.

Is there an equivalent pay back for the public institution such as a royalty payment or revenue share ?

No.

Which costs does each party bear ?

See above ("contribution of the parties")

Are there any financial incentives or penalties included in the partnership, and what form did these take ?

No.

Is the business model clearly stated in a written agreement, and if so, what were the key terms ?

No. The project aims precisely at experimenting a viable and sustainable business model.

Ownership of intellectual property

The prerequisite for putting online material protected by IP and copyright law, is the transfer, by the authors to the publishers, of the reproduction and representation rights attached to their works.

Through the publishing contract, the authors transfer to the publishers the right to create copies of the works, the publishers being in charge of their publication and distribution.

However, publishing contracts, particularly the older ones, do not foresee in a systematic way the transfer of rights for a digital exploitation of published works. In this case, amendments to the initial contracts are necessary in order to authorize the publishers to exploit the works in this new way.

These amendments determine the basis and the rate of the authors' remuneration due to this new exploitation. It also allows for the possible use of technical means for total or partial protection of the works, in accordance with French copyright law.

This contractual framework allows the publishers to have the works distributed through e-retailers according to a chosen business model. The publishers determine the format, the presentation, the price, the date of publication and the conditions for accessing the works. The publishers will exploit the works in full respect of the authors' moral rights.

The e-retailers will then authorize the BnF to index the works in the *Gallica2* portal. The BnF doesn't request exclusivity: the works can be distributed and indexed by other websites or portals.

The indexing is made by the BnF through the inclusion of the descriptive metadata in its own servers and the display of these metadata in the results list provided by the *Gallica2* search engine.

The BnF will also be able to index the full content of a work if the publisher authorizes the e-retailer to do so and if the e-retailer provides the content to the BnF. In this case, a short excerpt of the content is displayed so that the user receives information about the context of the result of the search.

The e-retailer is also requested to authorize the BnF to establish a link towards the retailer's website, accompanied with its name and logo.

Governance

In addition to the author(s)/publisher(s) contract(s) and the publisher(s)/ e-retailer(s) contract(s) (see above IP section), the BnF has a formal licence agreement with the e-retailers, which authorizes the BnF to include, in its own servers, the descriptive metadata which will be displayed in the results lists, or the full content (if the author and the publisher have given permission), to make and store safeguard copies of the metadata (or of the full content, if authorized).

The e-retailers commit to give access to the works under copyright in a digital form (the price of which is determined by the publisher) and to allow free browsing of the works.

The procedure for dispute resolution will be a judicial one, according to French law.

Termination and exit

The experiment will have a one-year duration (starting March 2008) and the contracts between the BnF and the e-retailers are on an annual (renewable) basis.

A global balance of the experiment will be made after one year.

Critical success factors

The success will be defined and measured through the number of books available through the platform, the number of publishers joining the project, as well as technical factors such as the efficiency (speed, relevance of results, etc.) of the search engine.

Risks and issues

Some of the key issues are :

- the extent of the transfer of contents from the publishers to the common index (the richer the transfer – i.e. full text as opposed to simple metadata - the better the search) ; This issue has already been solved.

- the implementation of standards for the exchange of metadata ;

- the sustainability of the project in relation to the "big" search engines (Google, Yahoo, MS, etc.) since the platform will use the libraries classification principles, which are more efficient than the ones used by the "big" search engines and which provide more relevant results.

No conflicts between the activities of the partnership and the hosts are foreseen, since everything is done on an experimental and voluntary basis.

This is a typical public/private project where each partner retains its role and identity (public service provided by the public institution ; commercial services handled by the e-retailers and the publishers).

Other relevant information

Please see hereafter (in annex) the executive summary of the Numilog report " Study for the Elaboration of a Business Model for the Participation of Publishers in the European Digital Library Project", which explains the projected business model.

See also the BnF website :

(http://www.bnf.fr/pages/zNavigat/frame/version_anglaise.htm?ancre=english.htm)

[*Annex 1*]

List of publishers taking part in the experiment of a digital offer including copyrighted documents (as of March. 7th, 2008).

Academia-Bruylant	Editions T.J. Sanz
10/18	Editions Vagabonde
Actes Sud	Editions Viviane Hamy
AFNOR	Editions Zinedi
Agone	Editions Zulma
Albin Michel	EDP Sciences
Archange Minotaure	Elina
Argus Valentines	EMS Editions
Atelier du Gué	E-theque
Belin	L'Etudiant
Chan-Ok	Express éditions
Climats	Eyrolles
CréaPassions	Fayard
Dalloz	Flammarion
Diateino	Fleuve noir
Dunod	Gallimard
Du Puits Fleuri	Gremese International
Edilivre	Gualino Editeur
Ediscience	Hermès Sciences
Editions Alpen	INSEP Consulting Editions
Editions Amphora	La Découverte
Editions Artémis	La Documentation française
Editions Bayard	Lavoisier
Editions Charles Corlet	La Louve Editions

Editions Complexe

Editions Déclics

Editions de l'Archipel

Éditions de l'Eclat

Editions de l'Emmanuel

Editions de l'Olivier

Editions de l'OCDE

Editions de Minuit

Editions Demos

Editions d'Organisation

Editions du Temps

Editions de la Bibliothèque nationale de France

Editions de la Table Ronde

Editions Ecriture

Editions Fédérop

Editions Féret

Editions Florent Massot

Editions Jean-Paul Gisserot

Editions La Volte

Editions Lafontaine

Editions Le Cavalier Bleu

Editions LGDJ

Editions Le Manuscrit

Editions Les Capucines

Editions Marie-Claire

Editions Métailié

Leduc.s Editions

Le Seuil

Le Souffle d'Or

L'Harmattan

Les Editions culinaires

Les Editions Diateno

Les Editions Mondéos

M21 Editions

Magnard

manuscrit.com

Masson

Maxima

Nathan

Oskar

Pearson

Perrin

PLB Editions

Presses du Châtelet

Presses polytechniques universitaires romandes

Presses universitaires de France

Presses universitaires de Grenoble

Presses universitaires de Rennes

Pocket

Pocket Jeunesse

P.O.L.

Quae

Editions MF	Quidam Editeur
Editions Michalon	Retz
Editions Milan	Ricochet
Editions Montchrestien	Robert Laffont
Editions Motus	Salvator
Editions Passage du Nord-Ouest	Samedi Midi éditions
Editions Payot et Rivages	Tec & Doc
Editions Romain Pages	T.J. Sanz Editeur
Editions Stéphane Leduc	Univers Poche
Editions Sud-Ouest	Vuibert

Study for the Elaboration of a Business Model for the Participation of Publishers in the European Digital Library Project : Executive Summary

The "Bibliothèque nationale de France (BnF)" (French national Library) has been given the responsibility of the French contribution to the *European digital library,* a project which proposed label is *Europeana*. It is using its experience with the *Gallica* project, which already offers more than 80.000 works free of copyright online and downloadable for free. A prototype website of *Europeana* has been launched in march, 2007 with 120.000 titles from France, Hungary and Portugal.

BnF strategy for *Europeana* is to display out of copyright books on this library as well as more recent under copyright books. In order to achieve this goal, the BnF and the French Association of Publishers (SNE) have delegated the responsibility of elaborating a possible business model to Numilog.com (Numilog), an ebooks' specialist. This business model must take into account the different players that have different interests, as well as the economic, functional, technical and legal constraints for works under copyright. The method used has been to identify the possible business models that would combine the constraints of the BnF under the *Europeana* guidelines and specifications, as well as the objectives and constraints of the publishers who will participate by contributing works for which they hold the rights. Other constraints include the technical viability of the proposed models, and more importantly the reliability of the protection and remuneration of the copyright holders, the integration of the different players of the book industry, an awareness of domestic and foreign experiences with the existing economic models and the potential costs.

The main results of the study are summarized below:

1   A. ANALYSES OF THE EBOOK INDUSTRY AND POSSIBLE ECONOMIC MODELS

Use of ebooks is justified by lots of advantages, e.g.: immediate worldwide availability, easiness of transport for large collection of ebooks, and the interactive functionalities like full-text search engines within a book or a catalogue of books, adaptability of the size of the text to each personal viewing preferences, hypertext links, rich media add-ons or use of vocal synthesis software's for visually impaired people. Access to ebooks can be offered on line or off line after download, on various kinds of electronic devices: computers, PDAs, Smartphones or the new electronic ink based readers with a paper-like rendering for reading.

A new ebook industry can be identified, with some analogies with the traditional book industry, where several major players are interacting:

- Writers and publishers, who create the books and are the right holders ;
- Hosting platforms for ebooks files and associated metadatas;

- On line search portals, which propose full-text search engines to search inside the books, and possibilities to flip through the books found;
- Aggregators, which manage catalogue of ebooks from many publishers, implement DRM systems and offer several economic models and reading solutions;
- Ebooks stores, which sell the accesses to full-texts for individual customers;
- Printers, who propose print on demand services.

Full-text search and possibilities to flip through the books may be free or not. But the access to full-texts has necessarily to be paid when considering copyrighted books. This is the only way to respect the intellectual property rights and to prevent any threat on the economic equilibrium of the book industry in general. Furthermore, those priced accesses generally require use of DRM solutions in the present state of the technology and considering what publishers are ready to accept for the distribution of digitized contents.

Two categories of business models may be identified, as in the traditional book industry:

- **Bookstores models**, which propose individual access licenses to the ebooks;
- **Digital libraries models**, which propose collective access licenses to the ebooks.

For each of those general models, one can identify subcategories, depending on the combination of several choices, such as:

- Perennial or temporary access;
- Access to the whole book or to parts, e.g. chapters;
- Title by title or package sales.

If one observes the present state of the market, ebooks stores mainly propose:

- **Sales of copies of ebooks**, a model which is alike the traditional print model;
- **"Pay per view",** a model in which the customers pay for a temporary access to the book or to read only some pages;
- **Subscription to packages of ebooks,** organized by subjects or corresponding to all the works of a writer.

On the other side, the two main kinds of business models offered for digital libraries are the following:

- A **limited simultaneous accesses model**, more often on a title by title basis, where the library may purchase a perennial right to lend the ebooks or subscribe to an annual right;
- An **unlimited access to packages of ebooks**, generally on the basis of annual subscription fees depending on the number of potential end-users (for instance the number of students of a university). This often leads to so called "big deals", i.e. expensive deals for lots of potential end-users.

Hybrid models may also be set, where the institution pays on line reading along a library model and end-users pay printing along a bookstore model.

These business models are widely proposed on a yet very dynamic ebooks market in the USA and in Europe, especially by aggregators and specialized ebooks stores, but also directly to their customers by several academic publishers.

2   B. RECOMMENDATIONS

The choice of an appropriate business model for proposing under copyright books in the European digital library and the choice of a position for this library within the ebook industry are naturally correlated one to each other. This is illustrated by the recommendation of the study.

After having analyzed the various possible business models for offering access to full-texts, one can draw the following conclusions:

1. **Digital library business models are not suited for *Europeana*, if one considers the size of the population of potential end-users and the will to offer a near exhaustive catalogue of books**. Indeed these important quantitative differences with traditional libraries, even big academic institutions, lead to a qualitative difference:
   - A limited simultaneous accesses model would imply to choose the number of simultaneous accesses relevant for a population including all the European netsurfers, and even all the netsurfers in the world. Such a choice does not seem possible. Would it be, it would lead to purchase or subscription budgets well beyond the present funding capacities of the BnF, and probably of each national library for the books of their own country.
   - An unlimited accesses model would lead to a real dead end: the acceptable compensation value by the publishers of such an access offered to the whole world would probably be the total economic value of the present book market!

2. **Bookstores business models are, on the contrary, very well suited for offering payment solutions for accessing to full texts in the case of a non closed end-users population and of a very very large and regularly growing catalogue of books**. Such models can be of several kinds that would allow various ways of accessing to several formats of ebooks, depending of the needs and choices of end-users.

Considering the fact that it is neither the mission nor the will of public institutions such as the national libraries to act themselves as commercial players, the study recommends building partnerships with specialized commercial players.

In order to ensure a flexible organization relying on publishers free choices for their distribution partners on the one hand, and a unique data's exchange protocol and a direct and simple course to access the texts for the end-users on the other hand, the study also recommends that each publisher chooses **one single distributor** (typically an aggregator) for managing its collaboration with *Europeana* and the accesses to its contents. These e-retailers, chosen by publishers, should be approved by *Europeana* on the basis of specifications.

Furthermore, the study strongly recommends **associating the existing bookstores to Europeana**, at least those already present on the Internet. This should be done first through direct links from the search results of *Europeana* towards their websites, where

the print versions can be ordered, but also in a second time, for those who will choose to sell also digital versions, through links from the "approved e-retailers" platforms to their ebooks stores.

Besides, the study recommends proposing, each time it is possible, **a direct and free access to ebooks for disabled people**. This could be done without any contradiction with the general principle of ensuring the full respect of intellectual property rights and the payment of right holders if disabled people are directed to websites like the "Bibliothèque Numérique pour le Handicap" (Digital Library for Disabled People), whose relationships with publishers are based on a clear rights and economic model.

In summary, the position of *Europeana* within the ebook industry would be:

- **A genuine digital library** offering direct accesses to full texts for out of copyright books;
- **A search portal** offering a full-text search engine within all kinds of books and links to access to the full content of the books on other platforms for under copyright ones.

The full-text search and the flipping through the books should always remain completely free, even if the flipping functionalities are to be operated only with one of the "approved e-retailers" reading solutions, equipped with DRM**.** The search should be operated on the website of *Europeana* through a common data basis for out of copyright and under copyright books, and the ranking of the results should depend only of relevance criteria.

Publishers who will accept to offer an access to the files and metadata's required for those free search functionalities would in return benefit from the visibility and promotional impact of *Europeana* for their books. Hence**, the digitization process will be under their sole responsibility** but will have to fulfil the following constraints:

- Explicit agreements of all the right holders;
- Conformity to standardized formats for files and metadata's;
- Consideration of categories of books defined as relevant for *Europeana* by the national libraries, especially when the digitization process is partly afforded thanks to public subsidies.

The study recommends that working groups with professional players of the industry aim at defining standardization choices for the files and metadata's formats and transfer or access protocols and at defining specifications for the approved e-retailers.

An other suggestion is to evaluate the costs that would be implied by the digitization of all the books still under copyright and within the scope of the relevant categories defined by the BnF. A first estimation of unitary costs is proposed by the study:

- Approximately 15€ a book if one starts from print books and targets image files with text behind along a 95% correct OCR.
- Approximately 60€ a book if one converts PAO files to ebooks of good level quality, in text format.
- To those purely production costs, one must add the uploading costs for files and metadata's, typically around 10 to 15€ a book.

Publishers should fund the digitization, but public subsidies may also be granted to them when the digitized books meet the digitization strategy of the BnF. Furthermore the study indicates that this digitization process should be profitable for publishers even with quite cautious sales hypothesis.

Hence, the principle suggested in the recommendations of the study is to elaborate on a public / private partnership between the national libraries and all the book industry players:

- Publishers, who will allow full-text search of their books and propose accesses to their contents ;
- Bookstores, fully associated to the project, not only for p-books but also, and this is totally new, for e-books ;
- Aggregators, who can play the role of "approved e-retailers" if they are chosen by publishers ;
- Writers, whose agreement will be required for the digitization of books.

For the first time :

- All the usages and distribution channels opened by the digitization of books will be offered to end-users;
- At the same time, all the rights and payment schemes will be cleared with the right holders.

These recommendations have been **very widely approved by the professional people interviewed** for the needs of the study, among them leaders of the main representative professional associations, in France and in Europe. This is also a totally new situation for such a digital project.

Finally, the proposed scheme is flexible enough to fit to different cultural contexts and kinds of negotiations that could be drawn with publishers. This relative flexibility is a consequence of the "approved distributor" mechanism: the approved distributor may be an aggregator, or a group of publishers, or even a national library which would like to propose free on line accesses to collection of ebooks under copyright after a collective negotiation with the publishers of their countries.

Denis Zwirn - 06/06/2007

Annex 2.3

British Library – Thomson Gale Partnership around Historical Newspapers

1. Key players

The partnership is between the British Library (BL) and Thomson Gale but for the purposes of this document referred to simply as 'Gale'. Gale and the BL already had a long-standing licensing relationship whereby, as per other content aggregators and publishers, Gale would digitise selections of the collection to include in its commercial database products. These database products (e.g. Eighteenth Century Collections Online, the upcoming Nineteenth Century Periodicals) are the sold by Gale to the scholarly library market. A royalty is then paid to the BL for use of BL content.

However, for the current partnership, a tender was initiated to find a long-term partner for the hosting and delivery of digitised historical newspapers. Gale was successful in the procurement process. The partnership is non-exclusive.

2. Objectives

- The partnership had to provide a long-term web-based platform for the delivery of historical newspapers into the core customer groups the BL aims to serve - Higher Education, Public Libraries, Schools, General Public. The partnership must deliver a sustainable model for the delivery of historical newspapers over 7 – 10 years.
- Thomson Gale is a highly successful commercial publisher, predominantly in the education markets. Its aim is to deliver shareholder value through the publishing program. The BL aims to provide access to its collections in an increasingly digital environment, and is under funding pressure.

3. Contribution of the parties

- The BL contributed curatorial expertise, web service collaboration, digitised content (currently there are 3 million pages of newspapers that will be delivered by the end of 2008) and supportive learning material such as essays. Gale provided the web – based database platform, sales force, technical team, customer support and editorial development.
- A proportion of the initial digitised content has been digitised using funds from JISC. The JISC therefore is a stakeholder in the partnership, looking for access to the content for its community (HE/FE in the UK). The NSF in the US has given partial funding for the digitisation of the Burney collection.

4. Benefits

- The key benefits to the BL were that the investment (initial and ongoing) in developing, maintaining and hosting such an enormous and growing database did not

need to be found, allowing the BL to focus on core activities such as digital preservation[15]. It is anticipated that this collection will be of wide interest, resulting in significant levels of hits. Servicing such a large infrastructure would have been costly and resource-hungry. Additionally, the licensing arrangement with Gale allows pay as you go and subscription access to the user community. For the UK HE community, the ability to link with already paid-for products such as ECCO and Nineteenth Century Periodicals brings considerable depth to the scholarly endeavour.

- Gale benefits from a long-term agreement that leverages the infrastructure it already has in place, a stream of already digitised material and a commercial opportunity with some restrictions based on the digitisation agreements with other stakeholders.
- The partnership delivers an unparalleled digital collection that is of interest beyond scholarship. The anticipated public pay-as-you-go charging model is nominal, but will contribute to some of the costs. Any royalties earned will be used for future newspaper digitisation, thus ensuring a sustainable business model. In addition to access, the public purse has not had to fund the considerable technical and infrastructure costs associated with such an endeavour.
- Communication of the principles and values will be undertaken around the initial launch to UK Higher Education in October 2007. The public site will not launch until April 2008.

5. Business model

- The key components of the agreement are outlined above. Any royalties earned by the BL are put back into the ongoing digitisation programme. Gale provides the platform and associated development for direct cost during the agreement. Any costs are covered by sales, subject to any restrictions determined by funders of digitisation, if appropriate.
- The exact terms of the agreement are commercial in confidence.

6. Ownership of intellectual property

- The BL retains ownership of the IP created in the digital copy. The copyright in the underlying work remains unchanged.
- Much of the material being digitised is out of copyright. However a proportion is deemed to be in copyright or potentially in copyright. No database exists around historical newspapers to allow analysis of rights. Therefore permission was sought with the current owners of the newspapers, if known or assumed, informing them of the Library's intention to digitise this material. No responses were forthcoming.

7. Governance

- The BL and Gale both provided project management and senior level oversight to ensure that the aims were achieved on time to budget.

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[15] Current storage estimates for the first tranche of digitised content are ~11 terabytes

- There is a written agreement covering the arrangements, and this is Commercial in Confidence.

8. Termination and exit

- This is Commercial in Confidence.

9. Critical success factors

- The platform and service will launch in October 2007. It is too early to declare success, but initial signs are that further collaboration under the agreement is likely, and that the service will deliver an easy to use, accessible web platform to explore and discover the extensive Historical Newspapers collection.

10. Risks and issues

- Key risks were around the development of the sustainable business model which had to balance the public good aspirations of the BL with the commercial imperative of Gale. There were significant risks around the actual digitisation process, but these have been overcome through collaboration and development of rigorous quality assurance processes.
- Some material being digitised is in-copyright. When the library informed the newspapers of the digitisation rights-holders were informed that the material would be free to access on the web. A strategy to minimise risk around the part-commercialisation of the content is being developed with Gale prior to launch.

Annex 2.4

University of Michigan [U-M] and Google

1.   Key players

•   **Please include here a brief explanation of the players involved in the partnership and overview of their role and key activities**

The key players involved in the partnership are the University of Michigan [U-M] and Google. Google's role is to digitize works from the U-M collection to include in search services, and to make them available for discovery and research. Google and U-M worked together to identify the content to be digitized.

•   **How was the partnership established – e.g. did a formal selection of the partner take place or was the partnership a natural evolution of an existing relationship?**

On April 19, 2004, Google and the U-M agreed to digitize certain collections in the Library, from the entire library collection of approximately 7 million bound copies. The motivation behind the talks was a desire on the part of the University to make the library's resources widely available for education and research, including for future generations.

•   **Was the partnership exclusive or non-exclusive?**

The partnership is a mutually non-exclusive one.

2.   Objectives

•   **What did the partnership aim to achieve?**

The primary aim of this project was that the U-M's library collections would be searchable for anyone in the world with an Internet connection. As a leader in digital archival and preservation efforts among research libraries, the U-M Library has been digitizing material for many years, but its partnership with Google permit it to accomplish this task on a scope and scale that could not have been achieved.

The Google and U-M partnership was undertaken with strictest attention to the rights of all stakeholders, while ensuring full compliance with all applicable local and international intellectual property rights. As Universities and libraries fully engage in the digital world, this project seeks to preserve the world's collective knowledge and ensure its discoverability today and in the future.

• **What were the strategic objectives of the partners and how closely did they align?**

Google launched its Google Print program (now known as Google Book Search) in 2004 with the goal of indexing the world's books and making them searchable and discoverable. The U-M has one of the largest book collections in the U.S., and as a result, was an ideal partner to help Google fulfill its mission.

The U-M 's partnership with Google has three key strategic objectives:
- worldwide access to information;
- the public good of the diffusion of knowledge; and, to a lesser degree,
- the preservation of books.

3.   **Contribution of the parties**

• **What did each of the parties contribute to the partnership?**

Under the agreement, the U-M contributed the books in its collection, along with associated bibliographic metadata; Google contributed digitization services, designed to scan large volumes of books non-destructively. Google also contributed its infrastructure to index and serve the digitized images to the public, and to return copies of the digitized volumes to the University. Additionally, both parties contributed experience and expertise to ensure the success of a project that had never before been attempted at such a scale.

• **Were there any other key stakeholders in the project or programme, and if so, what was their contribution?**

In addition to the University of Michigan, including its 19 separate libraries, Google entered into similar digitization partnerships with several other institutions, including Harvard University, Oxford University, Stanford University, and the New York Public Library. Google has also entered partnerships in Europe with the Library of Barcelona, Library of the Complutense University, Ghent University Library, Cantonal and University Library of Lausanne, and the Bavarian State Library.

All of these partners contributed portions of their collections to the project, and worked closely with Google and each other to share best practices to make the overall project meet its goals more effectively.

4.   **Benefits**

• **What were the key benefits to the cultural institution and private sector player?**

Google believes that the digitisation of books will make the world's knowledge more accessible, effectively democratising access to information.

As a great public university, the U-M's core mission is to create, preserve, and disseminate knowledge – on campus and beyond. Both Google and the U-M believe that when people search for information on the Internet, library resources should be available for them to discover. By making the digital files searchable and discoverable on Google as well as the University's website and campus, the U-M's collection can reach a much wider audience than it could before, and the digital files that the University receives as part of the project help ensure that the contents of their books will not be lost.

• **What were the public good aspects of the partnership, and benefits to the citizen?**

The public will benefit because the project will make it easier for users to find relevant books, and provide greater access to an extensive collection of the world's knowledge. Google hopes to guide more users to books – specifically books they might not be able to find any other way – all the while carefully respecting authors' and publishers' copyrights. Google's goal is to work with publishers and authors to create a comprehensive, searchable, virtual card catalog of books in all languages that helps users discover new books and publishers find new readers. Along with helping people find books online, Google will give users direct links to where they can buy or borrow a copy. Digitisation also helps mitigate the risk of eventually losing the physical books due to disaster or deterioration.

• **How were these benefits articulated and communicated to key stakeholders?**

Additional information – a public document of frequently asked questions – is available here:

Google:
http://books.google.com/intl/en/googlebooks/about.html

University of Michigan:
http://www.lib.umich.edu/mdp/

5. **Business model**

The cooperative agreement with Google and the University of Michigan is publicly available: http://www.lib.umich.edu/mdp/umgooglecooperativeagreement.html.

• **What were the key constituents of the revenue and cost model?**

The University of Michigan is providing its bound print collections to Google for scanning (nearly 7 million volumes by the time the project is finished). Google bears the scanning costs and most other costs associated with the project. The U-M will receive a digital copy of the selected works for its own collection and will make its library holdings searchable through Google to the general public.

•   **Was there an equivalent pay back for the public institution such as a royalty payment or revenue share?**

There is no pay back for the public institution such as a royalty payment or revenue share.

•   **Which costs did each party bear?**

All direct costs are borne by Google, including scanning costs, necessary costs related to conversion and transmission of data, and all costs related to pulling and reshelving materials. The University of Michigan bears no direct costs in its cooperative effort with Google, nor does it receive any royalties or other direct payments from Google.

•   **Were there any financial incentives or penalties included in the partnership, and what form did these take?**

No.

•   **Was the business model clearly stated in a written agreement, and if so, what were the key terms?**

The costs borne by each party are explicitly set forth in the cooperative agreement.

6.   Ownership of intellectual property

•   **What were the key intellectual property issues, and how were they dealt with?**

All books, both public domain and in-copyright, will be scanned, but the way that the books are made available to users will differ depending on their copyright status. Google makes use of intellectual property that is fully consistent with fair use and the principles underlying both local and international copyright law.

For example, Google Book Search data comes from two sources: the Partner Programme and the Library Project. The Google and U-M partnership are a result of the Library Project.

Partner Programme: Partners (typically publishers) supply Google with their books or the rights to digitize and put online. Users are then shown a strictly limited number of book pages that are relevant to their search. If it is of interest, they can click through to the publisher's website, or an online retailer, and buy it. This programme to display only excerpts of in-copyright books is based on explicit contractual agreements with the rightsholders of these books – our partners, including publishers and authors.

Library Project: Libraries (in this case the U-M) may provide Google with their books to digitize. If a library book is in the public domain (out of copyright), it is shown in its entirety. If it is in-copyright, then users just receive basic background on the book, at most two or three snippets from the book and information about how to find it in a library, or where it can be bought.

• **What were the key copyright constraints, and how were the appropriate permissions obtained from rights holders?**

The Google and U-M partnership is fully consistent with the fair use doctrine under U.S. copyright law and the principles underlying both local and international copyright law. Copyright law strikes a balance between rewarding creators of intellectual property for their creations and facilitating public access to these works in ways that do not create a business harm. By making books more discoverable, Google is enhancing the ability of authors and publishers to sell books to an audience beyond the traditional book market.

The Google Books Library project is designed to help people discover books, not read them from start to finish online. If a book has no copyright restrictions and is considered in the public domain, the full text will be available for online viewing. For books under copyright only a few sentences surrounding the search term will be available. To be clear: unless Google has explicit contractual approval to display excerpts of books such as in the Partner Programme, not even a single full page of an in-copyright work is shown.

While we believe there are many business advantages for publishers and authors to participate in the Google Books Library project, they can exclude their books from the project. Copyright holders who wish can request to remove their books from the project.

7.   Governance

• **How was the partnership governed and how were the relationships managed to ensure that the partnership fulfilled its aims and objectives?**

The partnership is governed by a commercial agreement along with individual project plans for each project. Each party designated a project manager to implement the project plans.

• **What was the form of the partnership, e.g. informal, formal, licence-based, joint venture, commercial agreement, etc?**

The   commercial   agreement   is   publicly   available   here: http://www.lib.umich.edu/mdp/umgooglecooperativeagreement.html.

• **Were the principles of the partnership clearly stated in a written agreement, such as a contract or memorandum of understanding? If so, how was this structured and what were the key terms?**

The principles are set forth in the commercial agreement. The key terms are as follows:

The University of Michigan and Google partnership will make 7 million University library volumes searchable via the Google search engine, and provide access to public domain books and discovery of all books. Google will digitize the library collection and make the items accessible through the Google site. The U-M library will receive a digital copy of the collection to use for its own purposes in accordance with the terms of the agreement and copyright law.

• **What was the mechanism for dispute resolution?**

Each party agrees that it will attempt to resolve any dispute in good faith. If such dispute cannot be resolved within 30 days of being raised, then the dispute will be elevated to the highest level at each party. Within an additional 30 days, if the dispute still cannot be resolved, the aggrieved party may file a lawsuit in accordance with the agreement terms.

**8.	Termination and exit**

• **What was the length of term of the partnership, and the mechanism for terminating once the project or programme was complete?**

The agreement continues until 30 April 2009, and thereafter, the agreement automatically renews for additional one year terms. Either party can send a notice of termination at least 30 days before any renewal term.

9. Critical success factors

• **How was success defined and measured?**

The primary objective of the partnership is to preserve the University library collection for future generations and to make the U-M's resources widely available for education and research. The permanent preservation of the U-M's collection of 7 million bound copies and the provision of public access to that information will represent success for both Google and the U-M.

• **Was the partnership successful, and if so, what were the key factors that contributed to this success?**

The partnership is ongoing. To date both parties are happy with the progress made towards the project goals.

**10.	Risks and issues**

• **What were the key risks to the parties and the success of the partnership, and how were these managed and mitigated?**

We have not identified any key risks to the parties or the success of the partnership.

•   **Were there any conflicts between the activities of the partnership and the hosts, and how were these conflicts overcome?**

There have been no conflicts between the activities of the partnership and the hosts.

11.   Other relevant information

•   **Please include here any information which you feel is key, which may not have been articulated in the paragraphs above.**

Additional information may be available on the Internet, such as:

•   Speech by Professor Mary Sue Coleman to Address to the Professional/Scholarly Publishing Division of the Association of American Publishers – 6 February 2006: http://www.umich.edu/news/index.html?BG/google/speeches

•   University of Michigan News Service Page on deal: http://www.umich.edu/news/index.html?BG/google/index

•   Cooperative agreement: http://www.lib.umich.edu/mdp/umgooglecooperativeagreement.html

Annex 2.5

The case of Broadcast and Audiovisual Archives: Ina's experience.

Context

Ina (Institut National de l'Audiovisuel), is in charge of the preservation and exploitation of France's public broadcast archives since the beginning of Radio and Television. This huge collection of 1.350.000 hours, enriches of 35000 hours every year (only news, entertainment and sports are preserved by Ina today).

Ina is a National Institute, however with a specific status, since it can develop commercial and industrial activities. The money allocated by the Government covers circa 60% of Ina's budget, the rest is obtained through commercial activity.

Since 2000 Ina has launched a major preservation and digitisation project for its archives which implies:
- Transferring to a digital high quality media the original analogue contents
- Coding the contents in broadcast production format and browsing format
- Introducing the contents in an information system for immediate access
- Digitising all the related information that will permit the commercial exploitation (contracts, production rights, participants)
- Developing a specific commercial and right management team to quickly deliver any content
- Developing a dedicated on-line access and service for professionals

Up to the date, 350000 hours of Radio and Television have been preserved and digitised and are accessible on line for professional search, thus becoming a model for all audiovisual archives and generating an important income that increases regularly in function of the amount of digitised material (15000 hours are also accessible on line for the general public, which can view freely 80% of the material and download it after payment for personal use).

This exploitation model for audiovisual archives implies a strong initial investment, mainly concentrated in preservation, in order to bring all the contents to a digital environment. However, once launched, it regularly produces and important income which can be used to accelerate preservation.

The preservation and digitization program launched in 2000 was financed through internal means, via reductions of budget in several domains, mainly the human one. With time, once the program was advanced, the government made a special contribution in order to accelerate the preservation and finish it in 2015. It must be clarified that preservation is a very long and costly process; under good conditions transferring one-hour of programs takes an average of 2 hours of work but this amount of time may be multiplied by 5!

Business models

Twenty years ago all content holders in the audiovisual domain (public and private) found that it was essential to keep the contents in-house, on shelves, in order to guarantee its security and easy access. Today most content owners find a very expensive and not easily manageable task to keep an audiovisual archive, without investing in preservation and digitisation[16]; so there is a quest for new solutions that could reduce the complexity of the tasks as well as human and storage costs. Two possible solutions then appear, which are starting to be implemented by Ina and are very promising in terms of finally making contents available for professional use and even to the public:

- The first solution consists in becoming a *Broker* for other archives. Ina's professional portal (www.inamediapro.com) is highly appreciated by French and European professionals. It is a good commercial point where transversal searches can be done thus addressing a large amount of collections (in a similar way to the European Library http://www.theeuropeanlibrary.org/portal/ but with commercial issues). Ina then receives a percentage for each transaction that it generates, the delivery and billing remains within the external archive.

- The second solution is *Distribution agreements*, through which an archive deposits its assets within Ina for exploitation. The distribution agreement can be done at different levels, ranging from a complete management of contents from preservation to digital exploitation, to simpler forms as storage and commercialisation only. Ina does the rights liberation, billing and delivery of contents. The amount of work done by Ina is much larger, as is the generated income.

Evolution of *distribution agreements* and *broking*

Slowly small collections have been introduced, and the technical implications have been studied and smoothed down. The main difficulty is adapting external description schemes to the existing scheme in Ina so to create a coherent set of searchable descriptors. The perspective today is to integrate large archives (10000 hours or more) in distribution agreement situations.

Up to now, the broking activities have consisted in integrating selected programs from specific content owners. In each case a selection of 300 hours was integrated to the professional offer, Ina receiving a small percentage of the transaction when it happens. Initially it started as a program exchange, where Ina would propose a selection of its collection to be proposed through other archives; however there are very few audiovisual archives in the world that are highly digitized to the point of being capable of integrating

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[16] **Preserving** means transfering an analogue content to its best digital equivalent in terms of quality, normally Digital Betacam cassettes are used for broadcast contents. However a cassette is a shelf media, which cannot be easily accessed. **Digitising** means converting a digital media in a digital file, which can be introduced in an information system at different quality levels, thus permiting immediate access and automatic indexation.

external contents. The first aim was to establish partnerships but the tendency today is to enlarge the offer and to become a reference for audiovisual contents.

Concerning distribution agreements, the most recent example is that of integrating 12000 hours or archives from a French private television channel. In the agreement, Ina digitizes, indexes (when needed), organizes the right issues and integrates the programs in their offer. Ina has to have finished the integration in 24 months. Ina keeps the totality of the income until all the digitization and indexation costs are covered; after that, a commission is kept by Ina for every transaction. Other contracts include the archives from overseas French departments; the nature of the transaction depends on the situation and conservation state of the archive.

Expected benefits
Ina has invested important amounts of money in the last 7 years in order to preserve and make its own contents available. The technical investment has implied developing and industrial chain for archive processing and description, and new skills had to be developed among the staff. External Service Providers have been associated to many preservation tasks in order to win the battle with time engaged by the institution to preserve its assets.

Now that the most endangered archives have been preserved and digitised and that the information and management system are highly effective, there is a strong issue in using that situation to accelerate the general preservation and digitization situation among other archives, which to not have the technology, the knowledge and the structure to afford it. Under this perspective, the Distribution agreement issue is an excellent way to capitalize efforts and to bring to the community a strong model.

Ina's strong position within the audiovisual community and the importance of its professional and public offer, constitute a very strong attractive for other content holders, which regularly approach Ina for advice and business. However there is a risk of hiding Ina's own contents through a very large offer, the actions now are concentrated in finding an efficient way to present all collections while keeping the distinction among the content owners.

Commercialisation contracts are being adapted in order to protect in the best possible way both partners of a distribution agreement or broking agreement. These contracts will possibly evolve with time in function of the difficulties that will appear through practice.

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Annex 2.6

The Canada Project: Library and Archives Canada

The Canada Project is still in its early stages and as of August 2007 there has been no formal agreement or MOU among the founding partners. Information on issues such as the governance structure of the project, details of contributions and the overall business case are still being negotiated and discussed. What is very clear at this point, however, is the commitment to the vision and the guiding principles of the Canada Project.

Overview
The Canada Project was initiated by the Librarian and Archivist of Canada, Ian Wilson, and is based on a simple, but audacious, premise: We can, and should, digitize all of Canada's extensive published cultural and scientific heritage. "All" means, in the vision that animates this project: the books published in or about Canada and by Canadian authors; the magazines, journals, and pamphlets that we have produced; our maps from 1508 to the present; a wide range of our television programs, radio programs, documentary films, movies and songs; the print and near-print publications of our governments—federal, provincial, territorial and municipal—and of our universities and colleges; and other forms of public content that our society creates and collects. For the immense quantity of unpublished archival holdings of institutions across Canada, we can at least digitize the catalogues and finding aids designed to help the public retrieve source material and enable a digital-on-demand service for this material, opening the archival vaults to all citizens.

Projects Guiding Principles
The three founding partners of the Canada Project have established and agreed upon the following guiding principles:

The Canada Project shall:
- Be an open collaboration in which there is no transfer of ownership or rights.
- Provide maximum public access within a framework of respect for copyright.
- Provide free access to public domain and public sector content and a growing body of rights-cleared in-copyright content.
- Reflect Canada's bilingual and multicultural reality.
- Create and maintain content according to standards that support preservation and very long-term access.

Founding Partners
Recognizing a host of opportunities and challenges brought about by the networked digital age – including the increasing value of information and knowledge to a country's prosperity and the importance of multi-disciplinary and multi-sector partnerships as a strategic path forward – Library and Archives Canada, Open Text Corporation and the University of Waterloo are forming a partnership to digitize and make accessible all of Canada's published cultural and scientific heritage.

Library and Archives Canada: The country's national library and archives, with responsibility for collecting and preserving Canada's written, visual and audio heritage. LAC has one of the most advanced preservation units in the world and is rapidly building robust digitization and digital records management capacity.

Open Text: This Waterloo-based company is a global leader in electronic content management, with corporate and government installations in dozens of countries. Its clients include many of the world's leading organizations and institutions and its content management and collaboration software holds a major part of the global market share in these fields.

University of Waterloo: UW is one of Canada's leading universities and is routinely described as the most innovative in the country. Its path-breaking work in computer science, systems design and co-operative education has thrust it into international prominence in the field of digitization and new media. The University's researchers played a key role in the digitization of the Oxford English Dictionary, which in turn helped launch Open Text.

Other Stakeholders
The founding partners have held positive discussions with other potential partners, participants, or sponsors of the project including:

Corporate
- DALSA (digital imaging)
- Terra Path
- Bell Canada Enterprises
- Royal Bank of Canada

Research libraries and archives:
- Bibliothèque et Archives nationales du Québec
- Université de Sherbrooke
- University of Toronto
- Dalhousie University
- University of Alberta
- Athabasca University
- Alouette Canada
- University of New Brunswick

Governments and governmental organizations:
- Municipal Information Systems Association

- Council of Canadian Academies
- Canadian Heritage

- Industry Canada
- Canada Foundation for Innovation
- Social Sciences and Humanities Research Council
- Natural Sciences and Engineering Research Council of Canada
- National Research Council

Publishers, authors' groups and heritage organizations:
- Dominion Institute
- Random House
- Thomson Nelson
- Historica Foundation of Canada
- Association of Canadian Publishers
- John Wiley and Sons Canada

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Objectives

The Canada Project brings together the strategic objectives of each of the founding partners to create a synergy that will benefit all Canadians. Library and Archives Canada's main objective is to digitize Canada's extensive published cultural and scientific heritage thus enhancing access for all Canadians and better serving Canadian researchers. For Open Text, the objective is to showcase its software and services to the world and demonstrate its leadership in content management. For University of Waterloo, the objective is to establish an Institute of Knowledge Management to advance research and learning using the digital resources created through the Canada Project

All of the founding partners recognize the need to develop a mass digitization initiative that is based in Canada and controlled by Canadian partners. Additionally, all partners have the mutual strategic objective of advancing research and innovation in the areas of digitization, taxonomic indexing, citation linking, semantic indexing, text mining, data mining, linguistic and semiotic research and the development of new search engines and ways of visualizing information.

Benefits

Based on the scope, vision and the Guiding Principles of the Canada Project, it is expected that following benefits can and will be achieved.

Increasing Access to Cultural and Scientific Information for All Canadians
> In a country as culturally diverse and physically large as Canada, providing widespread access to the nation's heritage is of fundamental importance to the development of a sense of national purpose and collective understanding. In as much as people increasingly turn to the Internet for information, insight and learning, they will discover Canadian content scattered widely, with only limited access to our works of literature, historical documents, images, television and radio programs, and other material.

Enhancing Methods for Scholarly Research
> Providing unfettered access to a massive collection of Canadian published, unpublished, visual and audio materials will offer Canadian academic researchers an unparalleled opportunity to innovate in social science, humanities, fine arts and science-related research. Access to mass databases of the size envisaged in the Canada Project will introduce sophisticated data mining techniques to these fields, provide uniform nation-wide access to massive national collections, and allow for the development of world-leading graduate and research programs based on facility with digital collections.

Advancing Research in Information and Communication Technology
> On the technology side, the Canada Project will stimulate research on data management (including management of variants such as translations, versions, editions, derivative works, etc.), automatic metadata, multimedia search and retrieval systems, preservation systems, user interfaces and universal access. While undertaken with the Canada Project in mind, this research will capitalize on the intensive private sector-government-university collaboration that is at the root of this initiative and provide a stellar opportunity for the commercialization of new software and data management techniques.

Promoting Knowledge Transfer across Disciplines and Sectors
> The Canada Project's private-government-university partnership not only coordinates resources to achieve the scale for mass digitization, it will also promote an exchange of

knowledge and expertise across the three sectors. The benefits of these types of multi-sector partnerships include:

- Exploring the economic benefits in terms of the creation and commercialization of knowledge technologies
- Promoting common languages and practices between sectors
- Better informing policy through a diversity of opinion
- Improving Canada's overall ability to remain current and competitive in the area of ICT

Supporting Advances in Education

The Canada Project provides nothing less than the opportunity for revolutionary change in the way that young people are taught about Canada and with use of Canadian resources and technologies, offering a key answer to those who worry about the shortcomings of heritage education in the country. A major parallel research project on the pedagogical aspects of mass digitization will thrust Canada to the international forefront in an area of profound long-term importance, ensuring that Canada takes and maintains a leadership role in the constructive and nation-building aspects of mass digitization.

Contributions

The Canada Project is still in its early days and negotiations concerning roles, responsibilities, resources and contributions are ongoing. Nevertheless, thus far, it is understood that each of the founding partners will make contributions along the following lines:

- Open Text will provide software and technical support free-of-charge to the Canada Project, and will work to bring other private and public sector support.
- The University of Waterloo will provide educational and research expertise and facilities, coordinate research grant applications, and will develop a Knowledge Management Institute.
- LAC will bring the content, digitization expertise and facilities, coordination with the network of Canadian libraries and archives, and the infrastructure and mandate to preserve the content and maintain long-term access.

Business Models

Given the early stages of the project, the costs, funding models and financial incentives have not been finalized.

It is expected that a mix of government (federal and provincial) and private funding will drive the project. To date, public sector parties interested in supporting the Canada Project include: Royal Bank, RIM, Bell Canada, and Open Text.

In any digitization effort of this scale, funding is a critical factor; however, LAC recognized early on that the funding contributions are simply one aspect of this partnership. A private-government-university partnership of this kind also provides significant opportunities for knowledge transfer, access to skills and expertise across sectors, and potential long-term cultural, scientific and economic benefits.

Ownership of Intellectual Property

Details concerning the intellectual property issues have not been worked out; however, it is a founding principle that there will be no transfer of content ownership or copyrights between any of the partners or participants in this project. It is expected that digitized versions of out-of-copyright material will remain in the public domain. Discussions on how to proceed with in copyright material including 'orphan works' are ongoing.

Governance

The details of the Governance structure have not been finalized. Stakeholders are still being consulted and governance models are being discussed. The intention is to have a non-profit organization governed by a Board comprised of the founding partners and some other key stakeholders, with capacity to receive and disperse funding, license technologies, and coordinate the project overall.

Critical Success Factors (initial list)
- Sound governance structure
- Transparency and openness in dealings among partners and stakeholders
- Cooperation and support from publishers and other content producers
- Successful negotiation with rightsholder groups related to permission to digitize and make available

Risks and Issues (initial list)
- Copyright
- Funding – The currently estimated investment (CDN$120M) may be insufficient.
- Transparency in private-public sector dealings
- Stakeholder buy-in and coordination with other initiatives such as AlouetteCanada
- Project coordination – The project foresees a distributed approach to both digitization and repositories for digital content
- Timeframe – 5 years may not suffice.

Annex 2.7

Open Content Alliance

1. Key players

- Please include here a brief explanation of the players involved in the partnership and overview of their role and key activities

The Open Content Alliance brings together more than 50 partners of 3 types:

1. libraries, archives etc. willing to make their collection accessible over the internet
2. search engines willing to promote open search on this new content and enrich the user search experience
3. a network of open repository to facilitate cross-sharing and replication of content

- How was the partnership established – e.g. did a formal selection of the partner take place or was the partnership a natural evolution of an existing relationship?

The OCA is open to all partners that agree with its principles.

- Was the partnership exclusive or non-exclusive?

Non-exclusive

2. Objectives

- What did the partnership aim to achieve?

The Open Content Alliance (OCA) represents the collaborative efforts of a group of cultural, technology, non-profit, and governmental organizations from around the world that will help build a permanent archive of multilingual digitized text and multimedia content.

- What were the strategic objectives of the partners and how closely did they align?

The contributing organizations support the following principles:

- The OCA will encourage the greatest possible degree of access to and reuse of collections in the archive, while respecting the rights of content owners and contributors.
- Contributors will determine the terms and conditions under which their collections are distributed and how attribution should be made.
- The OCA need not be obligated to accept all content that is offered to it and may give preference to that which can be made widely accessible.
- The OCA will offer collection and item-level metadata of its hosted collections in a variety of formats.
- The OCA welcomes efforts to create and offer tools (including finding aids, catalogues, and indexes) that will enhance the usability of the materials in the archive.
- Copies of the OCA collections will reside in multiple archives internationally to ensure their long-term preservation and accessibility to all.

Contribution of the parties

- What did each of the parties contribute to the

Content owners contribute their collection and part of the funding for digitization, Internet Archive and other open digital repositories provide their infrastructure for storage, access and processing of content and search engine bring indexing technology and some funding.

- Were there any other key stakeholders in the project or programme, and if so, what was their contribution?

The Alfred P. Sloan Foundation has awarded a $1.000.000 grant to support digitization of historic collections from 4 libraries without any restrictions on their use.
The State of California under the Library Services and Technology Act has awarded a $350,000 grant for the Open Library project. Other contributors are the Mellon foundation, Austin/Kahle Foundation etc.

Benefits
- What were the key benefits to the cultural institution and private sector player?

The OCA provides a framework of collaboration where hosting of content in a variety of format, item-level metadata and public access and visibility is given to participating institutions at no cost. In addition to this, use of scanning facilities designed to lower digitization cost is proposed. All this extends the possibility for cultural institutions to make their collections accessible on the Internet without any string attached to them.

- What were the public good aspects of the partnership, and benefits to the citizen?

The main benefit in terms of public good is the development of access to large collection of digitized material with the greatest possible degree of access to and reuse of collections.

It also guarantees for the longer term that the wealth of content that is brought onto the internet through digitization program will remain open for new types of use and re-use, development of new search and processing approach that can happen independently of established company or institution funding closed digitization projects, in a similar way to what was and it still possible with web content for instance.

- How were these benefits articulated and communicated to key stakeholders?

Yes, these benefits were clearly stated at the outset of the project as well as openly on the website.

3. **Business model**

- *N.B. This section is intended to be descriptive only, and should take account of the confidentiality issues associated with commercial agreements. Specific financial details are not necessary, unless the participant and their institution are able and willing to disclose them.*

- What were the key constituents of the revenue and cost model?

One of the main objectives of the OCA is to lower the costs of digitization and distribution of content on the Internet. This is done by technological innovation and pooling of existing resources and competences.

1. The digitization costs have been brought down to 10cts per page as a result of the efforts of the Internet Archive and its partners and thanks to a research grant from the Mellon foundation.
2. The access and search infrastructure is provided at no extra cost for libraries by the open digital repositories network using their existing large scale infrastructure and open source software.
3. Search, format used and transfer technologies have been optimized to lower cost while providing high quality rendering , search and browsing facility though open source development (openlibrary.org)
4. New services like print-on-demand and scan-on-demand are developed

- How did the private sector partner monetise the project or activity?

There is no monetization of the activity as it is mainly targeting collections of public domain books as well as orphan works.

- Was there an equivalent pay back for the public institution such as a royalty payment or revenue share?

No, but financial benefits are important due to the lowering of digitisation costs and free distribution of content.

- Which costs did each party bear?

- Internet Archive and the other open digital repositories bear infrastructural costs (storage, network) and development costs.
- Libraries bear part of the reduced digitisation costs

- Search Engine contributed their technologies and part of the digitisation costs

- Private and public entity contribute in research and digitisation funding

- Were there any financial incentives or penalties included in the partnership, and what form did these take?

No

- Was the business model clearly stated in a written agreement, and if so, what were the key terms?

Yes, please refer to the OCA site (http://www.opencontentalliance.org)

4. Ownership of intellectual property

- *N.B. This section is again intended to be descriptive and should be disclosed only with reference to commercial sensitivities and without breach of confidentiality*

- What were the key intellectual property issues, and how were they dealt with?

The principle of the OCA is to encourage the greatest possible degree of access to and reuse of collections in the archive, while respecting the rights of content owners and contributors.
One of the major goal is for instance to keep the public domain freely and openly available to anyone through the Internet. This implies to not add any IPR or usage restriction in the process and/or as a consequence of digitisation and distribution on the Internet. This was achieved by prioritising public domain content in the digitisation and ensuring that the partnership is built around this principle.

- What were the key copyright constraints, and how were the appropriate permissions obtained from rights holders?

The OCA is committed to respecting the copyrights of content owners. All content providers who contribute to the OCA must agree with the founding principles of the OCA, contained in the OCA Call for Participation, which describes how their materials and associated metadata will be accessed and used. Further, all contributors of collections can specify use restrictions on material that they contribute.
The OCA has been in discussions with major publishers and the organizations that represent them in order to explore legal, sustainable business models through which more copyrighted content can be made widely available. O'Reilly Media is one commercial publisher that has already agreed to make certain content available to the OCA. The OCA looks forward to continued dialogue with publishers in order to explore and build solutions that benefit the entire community of Internet users.

5. Governance

- *N.B. This section is again intended to be descriptive and should be disclosed only with reference to commercial sensitivities and without breach of confidentiality*
- How was the partnership governed and how were the relationships managed to ensure that the partnership fulfilled its aims and objectives?

The core functions of the OCA are be provided through working groups which advise on key operational issues and help establish essential policies and practices. Details about the first working groups are set out below. These groups are designed to be work-oriented and independent so that we can get substantial collections built quickly.

- What was the form of the partnership, e.g. informal, formal, licence-based, joint venture, commercial agreement, etc?

- Were the principles of the partnership clearly stated in a written agreement, such as a contract or memorandum of understanding? If so, how was this structured and what were the key terms?

- What was the mechanism for dispute resolution?

6. Termination and exit

- What was the length of term of the partnership, and the mechanism for terminating once the project or programme was complete?

Length of partnership is up to partners, who are free to join and leave the consortium.

7. Critical success factors

- How was success defined and measured?

Success is measured by the sheer size of content made available openly and adherence to open access principles.

- Was the partnership successful, and if so, what were the key factors that contributed to this success? Examples could include an alignment with strategic objectives, a good personal relationship between the parties, strong financial incentives

The OCA has received a high level of attention in the library community and beyond. It now counts more than 50 members and regional scanning centres in six cities scanning up to 12,000 books a month, over four million pages.

Last year, a milestone was achieved by in having digitized and made available to date, a total of 100,000 books on Internet Archive servers. In October 2007, 200 000 books were available.

Annex 2.8

The National Archives – Find My Past Limited partnership for Outbound Passenger Lists "BT 27" (Licensed Internet Associateship)

Key players

- The partnership is between The National Archives ("*TNA*") and Find My Past Limited ("fmp") (formerly known as 1837 Online). Fmp were one of 4 bidders in competition for a "Licensed Internet Associateship" to scan from originals, onsite at TNA, approximately 1.1million pages of type- and manuscript passenger lists covering all voyages outside Europe for the period 1890-1960.
- The licence is non-exclusive, but in order to fulfil contract obligations, fmp has to run the complete service successfully online for 6 months before depositing the digital images with TNA for re-licensing. Re-licensing is then for negotiation at a Statutory Instrument rate of 60p per image.
- This collection, available both through a micro site known as Ancestorsonboard and as part of fmp's subscription and ppv offering, is now complete online, fully name and ship-name searchable
- TNA receives royalty payments calculated by individual transcript and image downloads on a quarterly basis, and also receives monthly usage reports to enable it to achieve a KPI of 66m documents delivered online over the financial year 2007-08.

Objectives

- The partnership contributes towards TNA's corporate goal of digitising as many popular, name-dense record sets as possible, increasing access from purely physical interaction with the documents onsite to 24/7, worldwide public access.
- The strategic aim of fmp was to acquire a valuable and popular dataset, improving its competitive position in the online genealogy marketplace against Ancestry.com and Genes Reunited.
- TNA's strategic goals are both to widen access and to reduce wear-and-tear on fragile original records.

User proposition

- To scan in colour and transcribe every individual name, age or date of birth, departure and arrival ports, date of voyage, ship name and provide a fully name and ship-name searchable online service both on subscription and pay-per-view basis to a worldwide consumer market. Added value to end-users is the ability to name search – no microfilm existed for this class, and the only metadata in existence was at piece level (i.e. departure port and year).

Contribution of the parties

- TNA contributed:
    1. access to the original documents onsite at Kew, document handling training for operators and supervision onsite
    2. academic expert advice on the interpretation and presentation of the records
    3. media spokespeople, co-marketing and co-branding
    4. traffic referred directly from TNA's website to Ancestorsonboard
1. fmp contributed:

1. scanning onsite at Kew – with QA spot-checks by TNA
2. transcription
3. linking and serving of online service
4. PR and marketing in all key territories – Europe, N America, Australasia
5. royalty income
6. provision of underlying database to selected academic research centres by special arrangement, to allow scholarly interrogation of historical data on migration

Benefits

- Key benefits to TNA:
    1. digital surrogates created and deposited at no cost beyond facilitation of onsite scanning operation
    2. preservation, through withdrawal of originals from public availability
    3. global remote access to key content
    4. royalty income
    5. raised public awareness of the collection and its significance
  Key benefits to fmp:
    1. raised market profile through official partner status with TNA
    2. raised traffic and income
    3. better competitive position as provider of authentic UK emigration records in family history market
    4. competitive edge in key N American market because of preponderance of US and Canadian voyages
- Public good/citizen benefits: access to key data about their personal history without having to travel to Kew, apply for a reader's ticket, and wade through complex and unwieldy documents searching for names at minimal cost (minimum spend £5 online) or free access to online edition onsite at Kew.
- Communication of benefits: Marketing, newsletters, media interviews (print press, local and national radio, TV), fairs and shows – especially "Who Do You Think You Are Live", Olympia May 2007 and 2008.

Business model

- All creation costs born by fmp through sub-contractors for scanning and transcription operations
- How did the private sector partner monetise the project or activity? In commercial confidence.
- Was there an equivalent pay back for the public institution such as a royalty payment or revenue share? Yes
- Which costs did each party bear? See 5 above
- Were there any financial incentives or penalties included in the partnership, and what form did these take? No
- Was the business model clearly stated in a written agreement, and if so, what were the key terms? Yes, LiA submission forms (provided to all bidders by TNA) require outline of both business model and draft p&l for the project showing royalty forecast for 5 years.

Ownership of intellectual property

- What were the key intellectual property issues, and how were they dealt with?
- What were the key copyright constraints, and how were the appropriate permissions obtained from rights holders?
The material is Crown Copyright so there are no IP issues at the moment of digitisation.

Governance

- How was the partnership governed and how were the relationships managed to ensure that the partnership fulfilled its aims and objectives? IP in images of the documents belongs to TNA and is licensed by non-exclusive contract to the partner for the sole purpose of providing the specified online service for a term of 10 years.
- What was the form of the partnership, e.g. informal, formal, licence-based, joint venture, commercial agreement, etc? 2 licences – a "Digitisation Licence Agreement" covering the practicalities of creating the product and a "Licensed Internet Associateship" which covers the special benefits of a co-branded, authorised partner.
- Were the principles of the partnership clearly stated in a written agreement, such as a contract or memorandum of understanding? If so, how was this structured and what were the key terms? 2 separate licence agreements, see above
- What was the mechanism for dispute resolution? Confidential

Termination and exit

- What was the length of term of the partnership, and the mechanism for terminating once the project or programme was complete? 10 years with option to renew for further 2-year periods

Critical success factors

- Success is measured through user-stats for the service – unique users, transcriptions and images downloaded. Because of iterative launches of decades of data, this has gained in momentum as more records come on-stream and is now highly successful. Full success will be ensured after uninterrupted online service for 6 months from last data launch.
- Final launch 18 March 08 – but all the indications from data so far (since first launch in Jan 07) are that this has been very successful:
    1. in creating good quality surrogate images,
    2. reducing document productions on BT 27 by 99%,
    3. laying the foundation for further LiA partnership agreements between the parties,
    4. contribution to TNA's KPI of 66m virtual document productions p.a.
    5. royalty income
    6. raised profile of this record series and greater public awareness of resources for study of migration

Risks and issues

- key risks to the parties:
    1. overspend due to technical difficulties leading to failure to complete the series – mitigated by TNA stipulating deposit of digital images whether complete or not
    2. commercial failure – mitigated by sophisticated, large-scale marketing and media campaigns on both sides
    3. damage to original documents during scanning – mitigated by training of all staff involved by TNA's Collection Care staff, and employment of a project conservator throughout the onsite operation
    4. poor quality images – mitigated by TNA staff spot-checking images

Compiled by Caroline Kimbell, TNA

Annex 2.9

Bibliothèque nationale de France – France Telecom

Key players

The partnership is between:

- the Bibliothèque nationale de France (BnF) ;

- France Telecom (FT)

Objectives

A global framework agreement for a strategic partnership was signed in January 2007, between the BnF and FT, aiming at:

- promoting the digital French and European cultural heritage and at enabling its access for the great majority of people, particularly through the European Digital Library ;

- including the BnF's cultural programming within the online services offered by FT to its clients ;

- implementing devices for facilitating the access to the cultural offer of the BnF for visually handicapped and deaf people (through a specific sponsorship by the Orange Foundation).

Within that framework, the first objective ("*promoting the digital French and European cultural heritage...*") has progressively been clarified in 2007, identifying four directions for possible joint work:

- **mobility** : offering digital library services on mobile terminals ;

- **communities :** studying the users according to their documentary and navigational behaviours, proposing interactive services for communities of readers for tagging, commenting, recommending and sharing documents, in a Web 2.0 environment ;

- **semantic** enrichment of documents

- document **networking:** creating or revealing links between documents, in order to group them and to propose new services to the users.

An informal specific agreement has been reached in January 2008 : two directions of work (semantic enrichment and document networking) have been merged into a 2-year project of **geolocalization**, aiming at identifying names of geographic places within the full-text content of a document and at combining these names with geographic coordinates; This would enable to link documents with place names in order to provide content related to any specific geographic location either after a search or directly through messages sent to mobile devices when the user is on that specific place.

The formal agreement has yet to be signed and the joint project will be carried out between March 2008 and July 2009.

What were the strategic objectives of the partners and how closely did they align?

For the BnF, the strategic objective is to improve the quality of the services offered on its digital library Gallica2 by proposing new and innovative search modes.

For FT, the size of the digital collections on which its R&D teams can work represents a unique opportunity to develop and test new services for its clients.

Contribution of the parties

What does each of the parties contribute to the partnership?

The project will be carried out in a joint way : definition of a "use case" with a detailed scenario from the point of view of a fictitious user ; work on the data ; realization of a "mock up" ; work on the interfaces ; work on uses and data : assessment of results (BnF) and development of a prototype (FT).

Globally, the BnF will provide the documents, test the developments and provide "feedback" to the FT R&D teams which will be in charge of the technical developments.

Benefits

The key benefits to the cultural institution and private sector players are the following:

- for the BnF : to complement the online offer of digital material with innovative services and search and access modes ; to reach new users (owners of mobile devices)

- for FT: to develop and test new services on a large scale; to offer additional services in the cultural field to its clients.

Ownership of intellectual property

The issue relating to the intellectual property of the software has not yet been covered.

Governance

A joint steering committee is to be set up in the agreement.

Critical success factors

Two factors seem to be critical for the success of this project:

- taking into account the real needs of both partners in the working-out of the project, which explains the importance of the phase in which the needs will be defined ;

- the scalability issue: the project should not be limited to an experiment; the results should be integrated into the BnF online offer of services.

Risks and issues

The issue of intellectual property rights related to the software development must be addressed in order to enable the results to be integrated into the BnF online services.

ANNEX 3 – CHECK LIST FOR CULTURAL INSTITUTIONS CONTEMPLATING PUBLIC-PRIVATE PARTNERSHIPS

- Are the objectives, goals and outcomes of the project clearly stated?
- Are the strategic objectives of the partners aligned? If there is conflict, how will this be resolved?
- How will the partnership help the public sector institution achieve its public service mission?
- How will the partnership help the private sector partner achieve its goal to create shareholder value?
- Does the partnership have important benefits for the citizen? How does the product or service created through the partnership add value for the user?
- Does the partnership utilise the experience and contributions of all the partners? Have the contributions of the parties been clearly stated and agreed (including the amount and balance of funding, technical input, know-how, resources etc)?
- Does the partnership maximise public access? If access is restricted to certain audiences, is this appropriate?

- Does the partnership operate within the framework of applicable intellectual property and copyright law?
- Are the owners of any intellectual property rights following digitisation clearly stated?
- Will it be possible for the digitised content created to be re-used by other public-sector and private-sector players? Are any licensing arrangements necessary?

- Does the partnership create and maintain content according to defined standards and allow for long-term preservation?

- Does the partnership establish any exclusive contractual arrangements, and if so, are these exclusive arrangements necessary for the provision of a service in the public interest? Are they transparent?

- Is the business model is sustainable for the long-term, allowing further funding of the project? Will it be business-to-business or business-to-consumer?

- Will access to the digital content be free to the user or priced, and are there any conflicts with local laws or other issues in charging for access?

- How will the digital content and resulting service be packaged and marketed?

- Will the high-level governance of the project be formal or informal? Will it be transparent, open and accountable?
- Is there a clear mechanism for dispute resolution, in the event of disagreements between the partners?
- Does a time limit need to be placed on the partnership, and if so, what is appropriate?
- How will the parties exit the relationship if they decide this is in their interests?
- Will the partnership be formally established through a memorandum of understanding or contract? If so, have the key contractual provisions (including the issues above) been stated?
- How will the partnership be managed and resourced on a day-to-day basis?

ANNEX 4 – CONSULTION WITH KEY STAKEHOLDERS

The Conference of European National Librarians (CENL) - Lucie Burgess presented the work of the sub-group to CENL's annual meeting on 28th September 2007. CENL members were supportive of the project and made three key comments:

- That PPPs tend to work only for major language groups and markets due to the need for private partners to work in a large enough market for a commercial proposition to be viable
- That there is a tension between the commercialisation of content and the need to ensure that public domain content remains in the public domain and that cultural institutions retain ownership of the cultural assets of their nation
- That many cultural institutions do not need to seek partnership funding because digitisation projects are funded by their national governments.

The Federation of European Publishers (FEP) – Anne Bergman-Tahon presented the sub-group's work to the FEP Executive Committee on 21st September 2007.

Members of the FEP Executive Committee, which includes publishers and their representatives, were supportive of the project. They made the following comments:
- the need to develop a trust-based relationship which includes rights holders
- depending on the linguistic area and/or national policy, different types of PPP will be developed, and this has to be recognised in the work of the sub-group.

The International Federation of Television Archives (IFTA/ FIAT) – Daniel Teruggi presented the sub-group's work to the IFTA/FIAT annual conference on the 15th October. A session was dedicated to partnerships between archives and commercial players.
- The key problem for television and sound archives is digitising their contents and making them accessible externally for professionals and sometimes for the public. Preservation issues are paramount because in order to ensure long-term access, content must be migrated to new media approximately every five years.
- Private sector companies are actively approaching archives to propose integrated services dealing with digitisation, content management and access; however long-term preservation in general has been excluded. It is considered the content owner's responsibility to ensure preservation; private companies do not consider this to be within their remit.
- Private sector companies tend to present migration as the only solution for long-term storage. If archives could work together with commercial players to reduce the rate of migration, say from five to seven years, this would create significant cost savings.
- Few private sector players have the experience of dealing with the scale issues which archives must deal with; for example, 100,000 hours of high-resolution images can be equivalent to 18 petabytes of information.
- The consistency and persistence of the underlying content (questions such as "is the content still there? Has it suffered any changes through time?) are essential for a library or archive, but a solution has not yet been added to the service portfolio of most commercial players.

Archives community – Daria Nałęcz consulted the archives community via an informal e-mail questionnaire. Informal contributions were received from the national archives of France, Latvia, the Slovak Republic, Norway, Slovenia, Estonia and Poland. The key perspectives from the archives community are as follows:
- Although PPPs are generally allowed by law, they are not practiced widely. Many archives have used private companies to achieve digitisation on a commercial, arm's-length basis as

opposed to a partnership. There was one exception to this general rule, whereby one national archive was using a PPP to digitise sound and film.

- Although private companies have been used to digitise archive collections, the general view is that it is more economic and effective for archives to invest in the technology and staff resource required than invest resources in partnerships.
- Generally PPPs are viewed positively, and archives believe that they can deliver financial, technical, resource and other benefits such as access to marketing and product development expertise. Genealogy projects are seen as being particularly well-suited to PPPs. However the experience of using them is very limited in practice.
- Digitisation is seen as being one of the core competencies of modern archives and most archives said that they would not give their digitisation activities up even if they also employed PPPs to achieve large-scale digitisation projects.
- The mission of the archive to ensure a good public service is seen as important, although increasingly this has to be balanced with cost-effectiveness.
- Archives are firmly of the view that exclusive agreements are not appropriate unless they have been established for a time-limited period through an open tender process.
- Paid-for business models are unusual and archives see protecting public domain content as critical to their mission.