

WInstitutions Survey ([link](#))

Section 1 – Introductory questions

1. I am answering this survey as a representative of (select all that apply): *

- A library
- An archive
- A museum
- An audiovisual heritage institution
- An educational establishment (school, university)
- A research organisation (university, research institute, think tank, research association)

What type of **library** best describes your institution: *

- National library
- Public library
- Academic library
- Special library
- Other (please specify):

2. Please indicate which Member State you are based in: *

- Austria
- Belgium
- Croatia
- Estonia
- Finland
- France
- Germany
- Greece
- Italy
- The Netherlands
- Poland
- Portugal
- Spain
- Slovenia
- Sweden
- Other (please specify):

3. Does your institution rely on **public, private funding, or both?**

- Exclusively or largely on public funding
- Exclusively or largely on private funding
- Both public and private funding

While we don't believe that this question is necessary relevant (given that it opens up the potential for discrimination against research-industry partnerships), you should of course answer as appropriate for you

Section 2 – Acquisition of works / building of collections

To note, this section covers both traditional acquisition of works, and (temporary) licensing. Implicitly, it also appears to consider that open access works are also part of library collections. In responding, you should therefore assume that a collection refers to the full body of works to which your users have access.

2.1. Acquisition practices

4. What works does your institution hold / use and in what **format**?

(Physical/digital/don't)

- Textbooks / schoolbooks / workbooks
- Literary works for a general audience (e.g. fiction books, audiobooks, poems, newspaper articles, plays, etc.)
- Scientific publications (e.g., journal articles, non-fiction books for a specialist audience)
- Manuscripts (unpublished materials, such as letters, journals, diaries, letters, speeches, logbooks, financial records, etc.)
- Audiovisual content (e.g. films, documentaries, TV programmes, videos)
- Visual works (e.g. paintings, drawings, photographs, photographic negatives and microfilm, sculptures, advertisements, maps, and technical drawings)
- Musical works and sound recordings
- Computer programs and databases
- Performances (e.g. live or online artistic performances, choreographies)

5. How do you acquire **physical works** and build your collections? Select all that apply:

- Purchase, donation or bequeathment
- Access to copyright-protected works for uses permitted under copyright exceptions
- [Legal deposit](#)
- Direct licensing with rightholders (publishers, producers, distributors)
- Purchase of licences from aggregators (an organisation providing a platform to store and / or organise works for the purposes of e-lending, remote consultation, sale, indexing, etc.)
- Purchase of licences from Collective Management Organisations (CMOs)
- Use of free or [open access](#) works, including works in the [public domain](#)
- Other (please specify):

The answers about working through CMOs, using the public domain, or access for uses permitted under exceptions to acquire physical works are not really relevant of course

6. How do you acquire **digital** works and build your collections? Select all that apply

- Purchase, donation or bequeathment
- Access to copyright-protected works for uses permitted under copyright exceptions

- Legal deposit
- Direct licensing with rightholders (publishers, producers, distributors)
- Purchase of licences from aggregators (an organisation providing a platform to store and / or organise works for the purposes of e-lending, remote consultation, sale, indexing, etc.)
- Purchase of licences from Collective Management Organisations (CMOs)
- Use of free or open access works, including works in the public domain
- Other (please specify):

If answering legal deposit, it will be worth bearing in mind any restrictions on further users of such material later on in the survey. The answer about access for uses permitted under exceptions does not really make sense.

*From the perspective of your institution (i.e. considering the works you hold, users you serve, services you provide, etc.), please **assess the different options of acquiring works**. Please rank all options, including those that you do not use.*

7. Please assess the different options considering **the amount of works accessible via this option**: (1 = least, 5 = most)

- Purchase, donation or bequeathment
- Access to copyright-protected works for uses permitted under copyright exceptions
- Legal deposit
- Direct licensing with rightholders (publishers, producers, distributors)
- Purchase of licences from aggregators
- Purchase of licences from Collective Management Organisations (CMOs)
- Use of free or open access works, including works in the public domain

To note, much CMO licensing is of course secondary – i.e. it is not about acquiring the works in the first place, but rather about getting rights to do other things. This is a good place to highlight where what is available under licence is limited – for example if your country's eBook selection for libraries does not cover everything, it would make sense to give a lower score.

8. Please assess the different options considering **the cost in terms of prices for acquisition of works relevant to your institution**: (1 = least, 5 = most)

- Purchase, donation or bequeathment
- Access to copyright-protected works for uses permitted under copyright exceptions
- Legal deposit
- Direct licensing with rightholders (publishers, producers, distributors)
- Purchase of licences from aggregators
- Purchase of licences from Collective Management Organisations (CMOs)
- Use of free or open access works, including works in the public domain

To note, much CMO licensing is of course secondary – i.e. it is not about acquiring the works in the first place, but rather about getting rights to do other things.

9. Please assess the different options considering **the cost in terms of time spent specifically for the rights clearance process**:

- Purchase, donation or bequeathment
- Access to copyright-protected works for uses permitted under copyright exceptions
- Legal deposit
- Direct licensing with rightholders (publishers, producers, distributors)
- Purchase of licences from aggregators
- Purchase of licences from Collective Management Organisations (CMOs)
- Use of free or open access works, including works in the public domain

To note, much CMO licensing is of course secondary – i.e. it is not about acquiring the works in the first place, but rather about getting rights to do other things.

10. Please assess the different options considering **legal certainty it provides (i.e. how works can be used)**:

- Purchase, donation or bequeathment
- Access to copyright-protected works for uses permitted under copyright exceptions
- Legal deposit
- Direct licensing with rightholders (publishers, producers, distributors)
- Purchase of licences from aggregators
- Purchase of licences from Collective Management Organisations (CMOs)
- Use of free or open access works, including works in the public domains

This is a good place to highlight concerns about where licences do not necessarily offer guarantees for libraries or others

11. Please assess the different options considering how **easy it is to acquire works in digital formats**:

- Purchase, donation or bequeathment
- Access to copyright-protected works for uses permitted under copyright exceptions
- Legal deposit
- Direct licensing with rightholders (publishers, producers, distributors)
- Purchase of licences from aggregators
- Purchase of licences from Collective Management Organisations (CMOs)
- Use of free or open access works, including works in the public domain

This is a good place to make clear issues around refusals to licence – i.e. when a publisher or aggregator refuses to sell eBooks or other materials, only does so as part of a bundle, or even just doesn't make things available digitally.

12. Do you use any **specific system or practice to identify the status of a work** (e.g. a EUIPO portal on [out-of-commerce works](#), [orphan works database](#), public domain works (e.g. [Europeana](#) or similar national platforms), etc.)? Please elaborate

2.2 Licensing

13. On average, how easy it is for your institution to **obtain licences** that you need? (very easy to very difficult)

This reflects the question above, but should be read as applying both to getting original licences for access, and licences to enable different uses (allowing for research, remote access etc)

14. Have you encountered any of the below situations related to **licences**? Select all that apply and specify the situation:

- We were not able to obtain a license on some works when a rightholder/distributor refrained from licensing their works:
- We opted to obtain works via a license even though the use of the work is covered by a copyright exception:
- We could not identify the licensor for the relevant work:
- We were offered licences that, in our opinion, included unfair contractual terms, e.g. that prohibit usage rights:
- We opted for licences because the content was protected by digital locks, preventing us from using the work as permitted by copyright exceptions:
- Some e-book titles we purchased as part of a deal were later removed from the package with little or no warning:
- We could not afford a licence:
- We did not encounter any of these situations

All of these are issues that we have come across in different settings, but of course you should answer in line with your own experience

15. In general, do the licences you obtain for works permit **uses for all of the services** that you need to offer to users (e.g. individual researchers, students, teachers or other users, as well as other institutions)?

- Yes
- No, please specify what services or uses are not covered, for what type of works and other details:

This would be the place to highlight where licences do not permit remote uses/document supply, multiple users, walk-in users, preservation, lending and more!

2.3. Out-of-commerce works

16. Do you use **out-of-commerce works** (works that are still protected by copyright but are not available commercially)? Select all that apply:

- Yes, we access them through a collective licence
- Yes, we access them under a copyright exception
- No
- Do not know / cannot answer

A priori, we believe that collective licences are still very much in development here, and are likely to be quite restrictive. However, in order to point out problems with licensing or the current set up, it is necessary to select one of the 'yes' answers to highlight problems.

(IF YES) 17. Do you encounter any challenges related to **using out-of-commerce works** to build your collection? Select all that apply:

- Lack of human resources to exert reasonable effort to determine that the work is not in commerce
- Due diligence process is too technical or too difficult to understand
- Difficulties with declaring works to the EUIPO out-of-commerce works portal
- Fear that rightholders will use the opt-out possibility
- Other (please specify):

You should add in all relevant experiences here that you can!

2.4. Orphan works

Do you use **orphan works** (works that are protected by copyright, but the author cannot be identified or found)?

- Yes
- No
- Do not know / cannot answer

We are not quite sure why this question is here, but you should answer according to your experience. A lot of libraries with older collections will likely be in this situation though.

19. Do you encounter any challenges related to **using orphan works** to build your collection? Select all that apply:

- Lack of human resources to carry out diligent search to identify rightholder
- Due diligence process is too technical or too difficult to understand
- Other (please specify):
- We have not encountered any challenges

The Commission's own evaluation of the Orphan Works Directive has shown that the diligent search requirement has meant that the Directive's impact has been very limited. You may also want to consider concerns about liabilities and risk if applicable to you.

2.5 Public domain and open resources

20. Do you encounter any challenges related to **using works in the public domain and open resources** to build your collection? Select all that apply:

- Limited variety of works belonging to the public domain
- Limited variety of works available through open resources
- Uncertainty about legal liability
- Difficulty determining and / or confirming copyright status of work (e.g. unclarity concerning term of protection of copyright)
- Rights being claimed over public domain material by third parties
- Other (please specify):

Please use this space to provide further details on your **acquisition strategy**: how do you combine the different options (e.g. licensing, use of copyright-protected works under copyright exceptions, use of public domain works)? For what reason? Is there any other nuance you want to highlight?

This could be a useful place to highlight how far the way that copyright operates (including licences that operate under it) lead libraries away from building collections purely around the needs of the community, for the long term.

3.1. Digitisation of works

Digitisation of analogue works

22. Do you **digitise** the works that you acquire or the works that are in your collections (i.e. make digital copies of analogue works)?

- Yes
- No
- Do not know / cannot answer

23. Do you make these **digital copies of works available to the public**?

- Yes
- No

24. Do you digitise **out-of-commerce works**?

- Yes
- No
- Do not know / cannot answer

25. Do you digitise **orphan works**?

- Yes
- No
- Do not know / cannot answer

26. What is the **purpose** behind digitisation of works in your institution? Select all that apply:

- To digitise works for archival and preservation purposes
- To reduce physical consultation of works by making works available digitally
- To create online exhibitions (e.g. exposition online)
- To create immersive experiences (e.g. virtual tours of the institution, extended reality on-site solutions)
- To make works more widely available specifically for educational purposes
- To make works more widely available specifically for research purposes

- To make works more widely available specifically for leisure purposes
- Other (please specify):

27. Please share any experiences that you would consider a **best practice** from your institution related to digitisation of works (e.g. use of specific technical solutions, collaboration between stakeholders, etc.):

It is a little unclear what the goal of these questions is, but a priori it will be valuable to show that libraries are keen to digitise works in order to support wider goals. The reference to 'leisure' is unfortunate of course, but should be read as covering cultural participation.

3.2. On-site consultation of works

28. Do you have dedicated terminals (special screens or computers) in your premises allowing the consultation of digital works?

- Yes
- No
- Do not know / cannot answer

29. On average, how much do people use these dedicated terminals?

- The demand to use these terminals is higher than the amount of terminals we have available
- The demand to use these terminals matches the amount of terminals we have available
- The demand to use these terminals is lower than the amount of terminals we have available

30. Do you make digitised copies of works available over dedicated terminals on your premises under a copyright exception, or do you acquire a separate licence?

- We make digitised copies available over terminals under a copyright exception
- We acquire a separate licence to make digitised copies available over terminals
- Do not know / cannot answer

31. In your opinion, to what extent does the possibility to consult works **on your premises through dedicated terminals** respond to the needs of these users?

- Researchers for the purposes of research
- Teachers / students for educational purposes
- General public for cultural purposes

There is a general view that the dedicated terminals exception is very old-fashioned, and could be replaced by a possibility to provide remote access through secure networks. If this is the comparator, it would then be useful to indicate that the provision of on-the-premises access doesn't respond very well to the needs of users!

3.3. Online / virtual access to works

32. Do you have experience with any of the following **services** to individual and / or institutional users (e.g. (other) libraries, research and / or educational institutions)? Select all that apply:

Options:

- We provide this service to individual users
- We provide this service to institutional users
- As an institution, we use this service from another institution
- We do not have experience with this service
- Do not know / cannot answer

Answers

- E-lending of e-books or audiobooks licensed by rightholders
- E-lending of digitised copies of works in the collections
- Services for distance education (E.g. virtual courses, MOOCs, open educational resources)
- Services for research (e.g. document delivery services, 'Ask a Librarian' services, open access publications, open data)

33. In your opinion, to what extent does the possibility to consult works **remotely** in your institution respond to the needs of these users? (does not respond to fully respond)

- Researchers for the purposes of research
- Teachers / students for educational purposes
- General public for cultural or leisure purposes

This is a key question. We have tended to argue that too often, the possibilities are not good enough for researchers, teachers and the general public, insofar as they cannot fully make use of library collections at distance – for example because they live in a remote area, or have limited mobility. This would lead to answers that indicate that the possibilities available do not respond to needs.

Inter-library loans

34. Are you part of an **inter-library loan arrangement** (an arrangement among libraries that allows works from one library to be loaned out to a patron from another library)? Select all that apply:

- Yes, national, regional or local initiative, please provide examples of such initiatives:
- Yes, cross-border initiative (spanning two or more countries), please provide examples of such initiatives:
- No
- Do not know / cannot answer

35. Please select all that apply:

- We provide digital works in our shared inter-library loan catalogue
- We provide analogue works in our shared inter-library loan catalogue
- We use an external platform to carry out inter-library loans to users

- We do not use an external platform; requests are dealt with through individual library information services

36. Do you encounter any **challenges** related to participation in inter-library loans? Select all that apply and please specify:

- Challenges related to licensing terms and conditions:
- Other challenges related to legal uncertainty of applicable copyright rules:
- Challenges related to technical protection measures or format problems (e.g. files are technically not possible to share, restrictive platforms on which works are made available by rightholders / publishers):
- Challenges related to ease of access of works to users:
- Challenges related to human resources to conduct inter-library loans:
- Other challenges:
- We have not encountered any challenges

In addition to the above, concerns about litigation by rightholders might also be an issue.

37. Please share any experiences that you would consider a **best practice** from your institution related to inter-library loans:

Examples may include services like Unpaywall, Talaria and other possibilities simply to circumvent the restrictions that licences may put in place.

3.4. Cross-border activities

38. Can your collection of works be accessed by an individual or institutional user located in any other EU country?

- Yes
- No

This is not a great question, given that the answer is likely to be 'it depends'!

Education

39. Do you engage in any cross-border activities for **educational purposes** (e.g. facilitate access to works to teachers or students from a different country)?

- Yes, please provide practical examples of any such activities (e.g. joint initiatives, projects):
- No
- Do not know / cannot answer

This would include services to distance learners

40. Does your institution provide guidance related to applicable copyright rules to staff members responsible for developing **cross-border activities for educational purposes**?

- Yes, sufficient guidance
- Yes, but guidance is insufficient
- No

- Do not know / cannot answer

41. Do you encounter any of the below challenges related to cross-border activities for **educational purposes**? Select all that apply and please specify:

- Legal uncertainty (e.g. different copyright rules applicable across different countries, uncertainty whether acquired works can be made available across borders):
- Challenges related to licensing (e.g. need for an additional licence to cover cross-border uses), please specify in the next question
- Challenges related to technical protection measures limiting access to works and / or their dissemination:
- Challenges related to technological infrastructure:
- Challenges related to the need to share copyright-protected works between teachers and / or students located in different countries:
- Other, please specify:
- We have not encountered any challenges

Some of these answers are a little confusing (notably challenges around the need to share copyright protected works), but you should add in all that you experience.

42. Please share any experiences that you would consider a **good practice** from your institution related to cross-border activities for educational purposes (e.g. use of specific technical solutions, collaboration between stakeholders, etc.):

It is possible that this question is aiming at suggesting that technical or negotiated solutions (such as extended collective licensing) provide a response to cross-border activities. We would not tend to over-estimate how far these can go without more legal certainty.

Research

43. Do you engage in any **cross-border activities for research purposes** (e.g. facilitate access to works to researchers from a different country)?

- Yes, please provide practical examples of any such activities (e.g. joint initiatives, projects):
- No
- Do not know / cannot answer

This should include work to support researchers affiliated with your institution but based in other countries, as well as support for collaborative research projects

44. Does your institution provide guidance related to applicable copyright rules to staff members responsible for developing cross-border activities for **research purposes**?

- Yes
- No
- Do not know / cannot answer

45. Do you encounter any of the below challenges related to cross-border activities for **research purposes**? Select all that apply and please specify:

- Legal uncertainty (e.g. different copyright rules applicable across different countries, uncertainty whether acquired works can be made available across borders):
- Challenges related to licensing (e.g. need for an additional licence to cover cross-border uses), please specify in the next question
- Challenges related to technical protection measures limiting access to works and / or their dissemination:
- Challenges related to technological infrastructure:
- Challenges related to the need to share copyright-protected works between teachers and / or students located in different countries:
- Other, please specify:
- We have not encountered any challenges

Again, do mention if a concern is legal action by rightholders

46. Please share any experiences that you would consider a **good practice** from your institution related to cross-border activities for research purposes (e.g. use of specific technical solutions, collaboration between stakeholders, etc.):

It is possible that this question is aiming at suggesting that technical or negotiated solutions (such as extended collective licensing) provide a response to cross-border activities. We would not tend to over-estimate how far these can go without more legal certainty.

Cultural preservation and dissemination

47. Do you engage in any cross-border activities for **cultural preservation and dissemination purposes** (e.g. engagement in partnership with other institutions outside of our home country to develop digital repositories of works)?

- Yes, please provide practical examples of any such activities (e.g. joint initiatives, projects):
- No
- Do not know / cannot answer

This is in fact two questions, covering both preservation networks, and the creation of repositories that people can use. You should answer yes if either of these or both are the case

48. Does your institution provide guidance related to applicable copyright rules to staff members responsible for developing **cross-border activities for cultural preservation and dissemination purposes**?

- Yes
- No
- Do not know / cannot answer

49. Do you encounter any of the below challenges related to cross-border activities for **cultural preservation and dissemination purposes**? Select all that apply and please specify:

- Legal uncertainty (e.g. different copyright rules applicable across different countries, uncertainty whether acquired works can be made available across borders):
- Challenges related to licensing (e.g. need for an additional licence to cover cross-border uses), please specify in the next question
- Challenges related to technical protection measures limiting access to works and / or their dissemination:
- Challenges related to technological infrastructure:
- Challenges related to the need to share copyright-protected works between teachers and / or students located in different countries:
- Other, please specify:
- We have not encountered any challenges

Again, do mention if a concern is legal action by rightholders

50. Please share any experiences that you would consider a **good practice** from your institution related to cross-border activities for cultural preservation and dissemination purposes (e.g. use of specific technical solutions, collaboration between stakeholders, etc.):

It is possible that this question is aiming at suggesting that technical or negotiated solutions (such as extended collective licensing) provide a response to cross-border activities. We would not tend to over-estimate how far these can go without more legal certainty.

Section 4 – Opportunities for improvement

51. Please identify **priority measures** that you think would substantially improve the way public interest institutions provide access to knowledge and culture for **educational purposes**:

Select all priorities and the top 5

1. Enhancing legal certainty on the possibility to use digital copyright-protected works made available by cultural heritage institutions, libraries, museums or other public interest institutions in the education sector (improving the functioning of copyright illustration for teaching exception laid down in Directive 2001/29/EC Article 5(3)(a))
2. Enhancing legal certainty on the possibility or not to use copyright-protected works outside of the classroom
3. Updating or improving copyright rules that allow consultation of copyright-protected works on dedicated terminals located in the premises of public interest institutions (such as publicly accessible libraries, educational establishments or museums, or archives) for the purpose of own research or private study (Directive 2001/29/EC Article 5(3)(n))

4. Improving the national implementation of the new EU legal rules related to the use of works and other subject matter in digital and cross-border teaching activities (Directive 2019/790/EC Article 5)
5. Legal, licensing or technical tools to access works whose access should be permitted under an exception, but which is protected by digital rights management technology or other technological protection measures (Directive 2001/29/EC Article 6(4))
6. Ensuring that provisions enabling the use of protected materials under copyright exceptions have a cross-border effect both inside and outside of the EU
7. Updating or improving the functioning of copyright rules and technical procedures (e.g. on diligent search to identify rightsholder) related to orphan works
8. Updating or improving the functioning of copyright rules and technical procedures (e.g. on due diligence process, on declaring works to the EUIPO portal) related to out-of-commerce works
9. More funding to educational establishments to obtain access to works for educational purposes
10. Better technological infrastructure of public interest institutions to deliver services for education (e.g. digital platforms, on-site terminals, VR/AR applications, digital twins, etc.)
11. Protect educational institutions against unfair contractual practices (e.g. limiting usage for educational purposes or elevating prices)
12. Protect educational institutions from refusals to license works for educational purposes
13. Raising awareness about copyright rules, rights and obligations while using copyrighted works
14. More collaboration between educational institutions to obtain licences (e.g. joint negotiations for licences)
15. Improving the negotiating power of educational institutions in licensing (e.g. negotiation in consortia)
16. Facilitated licensing processes (e.g. use of standard licensing agreements, framework agreements)
17. Guidance / more clarity in applying and interpreting on rules regarding use of copyright-protected content for digital uses in the educational environment
18. Improving the legal mechanisms to support open educational resources, including access to public domain works
19. Guidance available to teachers on cross border education
20. More equitable compensation to rightsholders for uses of works under exceptions
21. Improving access to open educational resources
22. Limiting liabilities of educational institutions undertaking education in good faith (e.g. protection from damages for infringement of copyright)
23. Extending the application of copyright exceptions for non-commercial educational activities to other institutions (beyond educational institutions)
24. Facilitating access to works restricted by TPMs for educational uses covered by copyright exceptions

To be aware, answers 8-10, 13-17, 19-21 all point in the direction of actions that would not strengthen the legal position of libraries in supporting education. 5 is also less than ideal (24 is stronger). Of the other answers, 1, 2, 6, 11, 12, and 22-24 are most in line with Knowledge Rights 21's Action Plan

52. Please identify **priority measures** that you think would substantially improve the way public interest institutions provide access to knowledge and culture for **research purposes**:

1. Enhancing legal certainty on the possibility to use digital copyright-protected works made available by cultural heritage institutions, libraries, museums or other public interest institutions in the research sector (exception for scientific research laid down in Directive 2001/29/EC Article 5(3)(a))
2. Updating or improving copyright rules that allow consultation of copyright-protected works on dedicated terminals located in the premises of public interest institutions (such as publicly accessible libraries, educational establishments or museums, or archives) for the purpose of own research or private study (Directive 2001/29/EC Article 5(3)(n))
3. Improving practical national implementation of the rules on text-and-data mining for research purposes (Directive 2019/790 Article 3)
4. Clear and practical guidance in legislation, jurisprudence, and literature on what reproduction media produced by new technologies might attract copyright, from scans to photography to 3D data or any other type of relevant work.
5. Legal, licensing or technical tools to facilitate access to works whose access is lawful and covered by an exception, but which is protected by digital rights management technology or other technological protection measures (Directive 2001/29/EC Article 6(4))
6. Ensure that provisions enabling the use of protected materials under copyright exceptions have a cross-border effect both inside and outside of the EU for cross-border research
7. Rules on rights retention in research organisations to protect researchers and ensure they retain sufficient rights that would allow them or their funders to republish or reuse their work
8. Introducing a secondary publication right
9. Updating or improving the functioning of copyright rules and technical procedures (e.g. on diligent search to identify rightsholder) related to orphan works
10. Updating or improving the functioning of copyright rules and technical procedures (e.g. on due diligence process, on declaring works to the EUIPO portal) related to out-of-commerce works
11. Rules to ensure works and data produced by the public sector (such as official texts of a legislative, administrative, or legal nature) are freely available
12. More funding to research organisations to obtain access to works for research purposes
13. Better technological infrastructure of public interest institutions to deliver services for research (e.g. digital platforms, on-site terminals, VR/AR applications, digital twins, etc.)

14. Raising awareness about copyright rules, rights and obligations while using copyrighted works
15. More collaboration between research organisations to obtain licences (e.g. joint negotiations for licences)
16. Improving the negotiating power of research organisations in licensing (e.g. negotiation in consortia)
17. Facilitated licensing processes (e.g. use of standard licensing agreements, framework agreements)
18. More clarity / guidance in applying and interpreting rules regarding uses of copyright-protected digital content
19. More clarity / guidance in applying and interpreting rules regarding use of copyright-protected content for cross-border uses
20. More equitable compensation to rightsholders for uses of works under exceptions
21. Limiting liabilities of research organisations undertaking research in good faith (e.g. protection from damages for infringement of copyright)
22. Facilitating access to works restricted by TPMs for research uses covered by copyright exceptions

To be aware, answers 4 and 12-20 all point in the direction of actions that would not strengthen the legal position of libraries in supporting research. 5 is also less than ideal (22 is stronger). Of the other answers, 1, 6, 7, 8, 21 and 22 are most in line with Knowledge Rights 21's Action Plan

53. Please identify **priority measures** that you think would substantially improve the way public interest institutions provide access to knowledge and culture for **cultural heritage preservation and dissemination purposes**:

1. Clear and practical guidance on what works in the collection of cultural heritage institutions can be digitised for the purpose of preservation
2. Enhancing legal certainty on what works in the collection of cultural heritage institutions can be digitised for the purpose of preservation
3. Clear and practical guidance on which and how copyright-protected works in your collections can be made available to your users
4. Enhancing legal certainty on which and how copyright-protected works in your collections can be made available to your users
5. Improving access to public domain works
6. Improving the implementation of Article 14 of the Directive 2019/790, which requires Member States to exclude faithful reproductions of those works from the scope of copyright protection, ensuring they cannot be taken out of the public domain
7. Clear and practical guidance in legislation, jurisprudence, and literature what reproduction media produced by new technologies might attract copyright, from scans to photography to 3D data or any other reproduction of a work from a cultural heritage institution
8. Clear and practical guidance in legislation, jurisprudence, and literature on copyright rules to support cultural heritage institutions in the digital transformation and make content available online (3D scans, virtual tour exhibitions, virtual museums, NFTs, etc.)

9. Updating or improving the functioning of copyright rules and technical procedures (e.g. on diligent search to identify rightsholder) related to orphan works
10. Updating or improving the functioning of copyright rules and technical procedures (e.g. on due diligence process, on declaring works to the EUIPO portal) related to out-of-commerce works
11. More funding to cultural heritage institutions to obtain access to works and / or make them available, including in digital formats
12. Better technological infrastructure of cultural heritage institutions to deliver services (e.g. digital platforms, on-site terminals, VR/AR applications, digital twins, etc.)
13. Increased capacity-building opportunities for cultural heritage institutions, including developing expertise about legal digital framework for museums (e.g. either in-house or through centralized hubs)
14. Support to museums to develop sound mechanisms to track and analyse their digitisation efforts (e.g. help develop comprehensive and sound metrics to track digital activities and offers)
15. Improving or establishing national e-lending infrastructure / digital libraries
16. Raising awareness about copyright rules, rights and obligations while using copyrighted works
17. More collaboration between cultural heritage institutions to obtain licences (e.g. joint negotiations for licences)
18. Improving the negotiating power of cultural heritage institutions in licensing (e.g. negotiation in consortia)
19. Facilitated licensing processes (e.g. use of standard licensing agreements, framework agreements)
20. More clarity / guidance in applying and interpreting rules regarding uses of copyright-protected digital content
21. More clarity / guidance in applying and interpreting rules regarding use of copyright-protected content for cross-border uses
22. More equitable compensation to rightsholders for uses of works under exceptions
23. Limiting liabilities of cultural heritage institutions undertaking cultural heritage preservation and dissemination in good faith (e.g. protection from damages for infringement of copyright)
24. Stakeholder dialogue to exchange best practices and knowledge with respect to digitalisation issues relevant to the culture sector
25. Extending the application of copyright exception for non-commercial educational activities to other institutions (beyond educational institutions)
26. Facilitating access to works restricted by TPMs for educational or research uses covered by copyright exceptions

To be aware, answers 1, 3, 7, 8, 11-22, and 24 all point in the direction of actions that would not strengthen the legal position of libraries in supporting research. 5 is also less than ideal (22 is stronger). Of the other answers, 2, 4 and 23 are most in line with Knowledge Rights 21's Action Plan

54. Are there any **other opportunities** to improve how copyright-protected works are made available for **research or education purposes**? Please use the space below to elaborate:

You may want to highlight here the importance of legal backstops that make it clear that libraries can carry out eLending, as well as promote the importance of flexible norms that ensure that library and library users' needs can be met in an evolving technological environment.

Section 5 – Closing questions

55. Do you have any further comments you would like to add to the survey?

A point that we would certainly encourage respondents to highlight is the overall risk that the shift to digital uses is posing some key challenges to the fundamental nature of libraries work.

In particular, you may want to highlight issues around licences coming with an obligation to allow access to data about how works are used (and the resulting chilling effect), concerns about libraries' ability to preserve materials into the future, and more broadly (as already highlighted), the more limited freedoms libraries have to build collections according to community needs.

We should also be clear about the limitations of licences – that they simply aren't often available (by choice or necessity), that they impose terms that can undermine limitations and exception to copyright, and that they too often pay little attention to the needs of institutions.

Another point to underline is the experience in many cases that libraries need legal certainty in order to be able to operate, and are not resourced to deal with large amounts of risk.

Finally, it is worth noting that a key reason for the emergence of the Open Access and Open Educational Resources movements is the fact that traditional copyright models are not fit for purpose much of the time.

56. Are you willing to participate in further activities as part of the study (e.g. interviews, sharing of data, experiences and good practices)?

- Yes
- No

If you are able to volunteer to engage, that will be very welcome!