

Images of Works of Art in Museum Collections: The Experience of Open Access

A Study of 11 Museums

Prepared for The Andrew W. Mellon Foundation

by Kristin Kelly

June 2013



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About the Author

Kristin Kelly is a freelance museum professional and writer based in San Diego. Prior to becoming an independent contractor, she spent nine years as the manager of administration at the J. Paul Getty Museum, and nine years overseeing public programming and communications at the Getty Conservation Institute. She has done freelance projects for foundations in the United States and worked for the government of Punjab State, India, for two years. She conducts ongoing research on art and architecture in Southeast Asia, and lectures on trips to the region. She graduated from Bryn Mawr College with an A.B. in History of Art, and earned a Ph.D. in Art History and Archaeology from Columbia University.

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Executive Summary

In December 2009, The Andrew W. Mellon Foundation organized a meeting of museum directors to discuss open access to images of works of art in their collections. This meeting was seen as a catalyst for further high-level discussion on the topic; it also prompted several of the museums present to investigate issues surrounding open access.

The author of this study was subsequently commissioned by the Mellon Foundation in November of 2011 to research, via their websites, the image-access policies and processes of almost 50 museums in the United States and the United Kingdom. In collaboration with Mellon staff, the author narrowed the number of museums to be surveyed in depth to the 11 institutions cited in this report and developed a questionnaire (Appendix A) that was sent to each museum. The questionnaire formed the framework for in situ discussions that were held in May and June of 2012. In some cases, the author met with just one member of staff. In others, a group of staff responsible for various aspects of the museum's work took part in the discussions. The information sought related to the museum's policy on image rights, how and why the museum had arrived at this approach, any key changes resulting from the policy, and the implications of such changes.

The author also met or spoke with a number of experts in the field, all of whom are acknowledged at the beginning of this report.

This report describes the current approaches of 11 art museums in the United States and the United Kingdom to the use of images of works of art that are in their collections and are in the public domain. Each approach is slightly different. By presenting the thought processes and methods used in these institutions, this report aims to inform the decision making of other museums that are considering open access to images in their collections.

Following are the key findings presented in this report:

- Providing open access is a mission-driven decision.
- Different museums look at open access in different ways.
- Internal process is important.
- Loss of control fades as a concern.
- Technology matters.
- Revenue matters less than many institutions think it does.
- Change is good.

Introduction

This report describes the current approaches of 11 art museums in the United States and the United Kingdom to the use of images from their collections, when the underlying works are in the public domain. A work is considered to be in the public domain when it is not under copyright for one of several reasons: It may never have been under copyright; it may have passed out of copyright; or rights to claim copyright in the work may have been forfeited. Also, works created by the U.S. government do not have copyright protection. Webster's *New World College Dictionary* defines "public domain" as "the condition of being free from copyright or patent and, hence, open to use by anyone."¹

The following museums are included in this study:

- British Museum, London
- Indianapolis Museum of Art, Indianapolis
- J. Paul Getty Museum, Los Angeles
- Los Angeles County Museum of Art, Los Angeles
- Metropolitan Museum of Art, New York
- Morgan Library and Museum, New York
- National Gallery of Art, Washington, D.C.
- Victoria and Albert Museum, London
- Walters Art Museum, Baltimore
- Yale Center for British Art, New Haven
- Yale University Art Gallery, New Haven

Each museum has taken a slightly different approach to making images of the works in its collection more openly accessible. Within this group, some have been leaders in putting high-resolution digital files of works of art in their collection online for use by anyone for any purpose. Others have a highly refined "fee and free" system that adroitly mixes revenue generation with the promotion of scholarship by licensing the images for commercial use, while giving them away for academic and scholarly use. Still others evaluate each request on its individual merits. Some are committed to open access, while others are just considering it. The policies of these museums represent different points on a spectrum of practice.

Although all of the museums in this study qualify as "large" according to the Institute of Museum and Library Services (IMLS) definition,² their budgets range from less than \$20 million to more than \$300 million. Some have encyclopedic collections, while others have specialized collections. No museums of modern or contemporary art are included, as either the artist or the artist's estate still holds the copyright to many of the works in those collections. Additionally, this report does not cover the use of museum images for public relations or other communication purposes.

¹ This definition is quoted at <http://www.yourdictionary.com/public-domain>.

² In 2011, the IMLS defined "large" art museums as those with operating budgets in excess of \$2.9 million. See http://www.imls.gov/assets/1/AssetManager/MFAEval_Report.pdf.

Study Rationale

Art museums have long controlled the images of objects in their collections by charging for their use, and the fees charged can serve as a revenue source for the museum. Fees range from a token amount when the image is used for scholarly purposes to a significant sum when the image is used for commercial purposes. However, fees are often waived for educational and scholarly use. Income from images has rarely, if ever, covered the expense of managing this process, but as Allen (2009) found, there are historical reasons why museums continue to take this approach.

The thinking surrounding access to images has evolved rapidly, now that virtually all art museums are operating in a digital environment. Like the rest of the world, museums communicate with their audiences via their own and other websites, as well as via e-mail, Twitter, Facebook, and other social networking options. Museums distribute collection content, information, and images instantaneously. Users of these images, whether academics or the general public, are accustomed to working at Internet speed and expect the images to be delivered at that speed as well.³

Over the past few years, several art museums in the United States and the United Kingdom have consciously moved from a restrictive approach toward one of more open access to images of works in their collections. This report addresses the following questions with regard to open access:

- How are museums handling access to their images in a digital environment?
- If a policy change has occurred, what were the reasons?
- What are the organizational and financial implications for museums and their processes?
- What have been the effects on operations for museums that have taken a more open access approach?
- What options have emerged with regard to open access?
- What were the initial obstacles, if any? How were they overcome?
- What have been the real or perceived obstacles, financial or otherwise, in taking an open access approach?
- Is there a consensus among museums about free access to images for educational, academic, scholarly, and commercial use? If so, in what regard?

Prior Studies

In 2002, the Higher Education Digitisation Service (HEDS), based at the University of Hertfordshire, conducted a study for the Mellon Foundation, examining the sale of digital and analog formats of images of works in 51 institutions—archives, museums, galleries, and libraries—in the United Kingdom and Europe (Tanner and Deegan 2002). Among its many findings, the study revealed that none of the

³ Amy Heibel, associate vice president, technology and media, Los Angeles County Museum of Art, made this observation in an interview with the author.

institutions interviewed had fully recovered the associated costs of imaging (i.e., the costs of creation, management, storage, and providing service) solely from the sale of digital images. Only those that accounted for revenue from commercial rights as part of their operation showed any profits. Significantly, all the institutions surveyed placed their obligation to provide low-cost access to materials above the need to make a profit.

Tanner (2004) conducted a follow-up study that explored the rights and reproductions pricing models and policies of art museums in the United States in an increasingly digitized environment. The report found that museums viewed the following three factors as the most significant considerations associated with images of works in their collections: (1) revenue (the income from rights activities, which is credited either to the organization's general operating budget or to the department providing the service as an offset to costs); (2) licensing (the rights that are conferred and may be managed by in-house staff or by an outside commercial agent); and (3) control (described by Tanner as crediting and promoting the host museum and honoring the artists and their work). Of these, control was considered the most important factor.

Ballon and Westermann (2006) examined the use of images of works in museum collections from the perspective of publishers and scholars, among other topics, in their study, "Art History and Its Publications in the Electronic Age." One of their major recommendations was to begin "to break down barriers to access and distribution of images, in all media and at affordable prices, for scholarly research and publication."

Most recently, Allen (2009) concluded in her report, "Art Museum Images in Scholarly Publishing," that many of the assumptions held by museums related to the licensing of images of works in their collections may no longer be valid. Licensing income can offset some of the costs associated with the creation and delivery of images. Allen found, however, that museums generally do not analyze actual costs and that they cite gross rather than net revenue. Allen also found that the investment in technology, although costly, supports mission-driven activities, such as collaboration across the museum, better collections care, and a higher level of educational outreach when images are available online. In an increasingly digital world, images can be created with mobile phones, digital cameras, and scanners, and they are found in abundance on the World Wide Web. Some museums now see making high-quality images freely available to the public as a critical part of their mission. Lastly, although some museums still claim copyright in their photographs of two-dimensional works of art, most no longer do and ask only for a credit line rather than a copyright notice in reproductions.

In the second part of her report, Allen (2009) discussed three museums with pioneering and different approaches to distributing fee-free images, including the Metropolitan Museum of Art (MMA) and the Victoria and Albert Museum (V&A). She examined in detail the process by which the MMA arrived at its current approach

to making images available for scholars, describing the museum's investment in digital technology, the work in photo documentation, and the retrospective scanning of analog media, all of which laid the groundwork for the launch of the Met Images project. She also described the factors and the process that led to the museum's partnership with ARTstor to create the Images for Academic Publishing (IAP) service, which was developed by ARTstor to meet the MMA's desire to supply fee-free images to scholars. The IAP service launched in the spring of 2007. In addition, Allen covered the process by which the V&A decided to make images available for free on its website for scholarly and educational use. Smith (2009) and Maron (2011) also covered the V&A's decision-making process extensively.⁴

Current State of Discussion and Practice

Should museums provide open access to digital images of works of art in their collections that are in the public domain? This is a question of interest to professionals in the museum field at the moment. Several professional groups, including the Association of Art Museum Directors (AAMD), the American Association of Museums (AAM), and the College Art Association (CAA), have the issue on their agendas, with topics of discussions ranging from the technology required to implement open access, to legal issues related to copyright, to administrative and potential revenue concerns.

In December 2009, the Mellon Foundation organized a meeting in which museum directors frankly discussed open access to images of works in their collections. In the minds of many of this study's interviewees, that meeting was a clear catalyst for high-level discussion on the topic. Several museum directors began thinking about open access at this meeting.

One of those at the meeting was Gary Vikan, former director of the Walters Art Museum in Baltimore and former head of an AAMD task force convened in 2010 to explore the issue of access to images. Vikan described a great deal of "buzz" about the idea of open access. He said that he believes that many museums will adopt more open access to images if others do the same, though he acknowledged that there are technological, financial, and philosophical considerations involved. One of the goals of the task force was to create a forum in which AAMD members could discuss their questions and ideas about open access.

At the AAM annual meeting in May 2012 in Minneapolis, two sessions were dedicated to the topic of image access. One, titled "Copyrights, Wrongs, and the Creative Commons," dealt primarily with digital copyright issues and open access, and included a talk on the experience of the Yale University Art Gallery. The second, titled "Got Images? How to License, Distribute and Leverage Collection Media," provided a roadmap for policy and for systems of image

⁴ The Smithsonian Institution was the third organization in the study.

delivery.⁵

Another indicator of interest in the availability of images is the experience of ARTstor. The digital library at ARTstor, originally an initiative of The Andrew W. Mellon Foundation and now a separate 501(c)3 organization, is “a nonprofit resource that provides over 1.5 million digital images in the arts, architecture, humanities, and sciences with an accessible suite of software tools for teaching and research.”⁶ Images in ARTstor may be used for free for noncommercial, scholarly, and teaching purposes.⁷

The interest of museums and other cultural heritage organizations in participating in the IAP service of ARTstor has been increasing. The IAP service has its origins in the partnership between the MMA and ARTstor. As part of its Met Images project, the MMA decided to offer free images for scholarly publishing; the museum turned to ARTstor, to which it had been contributing its images since 2005, for assistance with creating a mechanism for delivering the museum’s images to scholars and educators. For two years, the MMA was virtually the sole provider of art images to the IAP. Bryn Mawr College added images in 2009, and the Getty Research Institute, the Northwestern University Library, the Indianapolis Museum of Art, the Walters Art Museum, the Dallas Museum of Art, and the Yale University Art Gallery are current contributors. Some collections at the University of California, Irvine, and the Princeton University Art Museum are listed on the IAP section of the ARTstor website as “forthcoming.” Images in the IAP service can be used free of charge for publications, subject to the terms and conditions determined by each of the contributing institutions.⁸

Lastly, publishers of art books that require images continue to express concern about both the costs associated with acquiring images for publication and the amount of time involved in acquiring

⁵ Kenneth Crews of Columbia University, Dan Dennehy from the Minneapolis Institute of Arts, John French from the Yale University Art Gallery, Pamela McClanahan from the Minnesota Historical Society Press, and Nancy Sims from the University of Minnesota Libraries participated in the “Copyrights” session. Anne Young from the Indianapolis Museum of Art, Cherie Chen from the J. Paul Getty Museum, Megan Bryant from the Sixth Floor Museum at Dealey Plaza, and Christine Kuan, then of ARTstor, participated in the “Got Images” session. At the “Got Images” session, one of the presenters conducted an informal poll of the approximately 80 attendees. When asked how many institutions allowed free and open access to images for educational and classroom teaching purposes, 100 percent of those in the audience raised their hands. When asked about free and open access for scholarly and academic publications, about 50 percent raised their hands. Lastly, when asked about erasing the lines between commercial and scholarly uses, only about three of the participants raised their hands. Although unscientific, this poll generally indicates that there is little opposition to the open and free use of museum images in classroom teaching and for nonprofit educational purposes, but museums still have questions about the use of images of their works in scholarly publishing and even more about open access for commercial use.

⁶ <http://www.artstor.org/what-is-artstor/w-html/artstor-overview.shtml>.

⁷ <http://www.artstor.org/what-is-artstor/w-html/artstor-overview.shtml>. Terms and conditions for the use of ARTstor images can be found at <http://www.artstor.org/our-organization/o-html/permitted-uses.shtml>.

⁸ The list of institutions on the “forthcoming” list for participation in the IAP service of ARTstor can be found at <http://www.artstor.org/what-is-artstor/w-html/services-publishing.shtml>.

those images—concerns that have not abated over the last few years.⁹ Recent discussions with Susan Bielstein, executive editor at the University of Chicago Press, and Patricia Fidler, publisher, art and architecture, at Yale University Press, suggest that though the rights situation is improving as some museums make their images openly accessible and others reduce their licensing fees, challenges remain. Fidler commented that museums should consult with scholarly publishers about their policies on image rights; she added that the availability of open access images continues to be insufficient and that procuring images is cost-prohibitive for some projects. Bielstein expressed concern about “segregating” scholarly publications from more popular publications and stated that it would only benefit the museum field to promote greater open access to images for all purposes.¹⁰

Other topics of current discussion relate to whether museums claim copyright in their digital images,¹¹ exert control over the use of museum images and their interpretation, and are able to generate revenue and recover costs. For several of the museums in this study, the revenue earned from image licensing is significant.

Those museums that have implemented open access to the images in their collections have done so only recently, and there is not yet a great deal of experience on which to base policy and implementation recommendations. Within the museum community, many institutions are interested in talking about open access, understanding the issues involved, and learning from the experiences of those museums that have taken an open access approach. Some museums would like to implement open access to images in their collections, but lack the technological, financial, or human resources to do so. Other museums are waiting until more museums have adopted open access to learn from their experiences.

Practices at Museums in the Study

Museums provide access to images in many ways, depending on institutional philosophy and operations, and, more pragmatically, on

⁹ There are three frequently cited articles on this topic: Nicoll (2005), which describes the history of the art book and current threats to its survival, including “the transformation of the idea of the museum from being the repository of a civilisation’s greatest achievements, willingly and properly supported by public funding and private philanthropy, into something close to an essentially commercial trading ‘enterprise’”; Lyon (2006), in which an entire page is devoted to “permissions purgatory”; and an editorial by False (2006), in which he reproaches museums for exploiting images in their collections and charging high fees for permission to reproduce the images.

¹⁰ A key article explaining the viewpoint of publishers and editors is Bielstein (2005).

¹¹ Many museums in the United States no longer claim copyright for digital representations of two-dimensional works in their collections in the public domain, though there are exceptions. Both museums in the United Kingdom in this study do claim copyright for these digital images. The differences are due primarily to the 1998 decision in the *Bridgeman vs. The Corel Corporation* case in the U.S. District Court for the Southern District of New York, which held that media copying two-dimensional works of art and lacking “sufficient originality” are not copyrightable. See http://www.law.cornell.edu/copyright/cases/36_FSupp2d_191.htm.

the state of their technology and systems, and the availability of human and financial resources. The approaches of the 11 museums in this survey cover a wide spectrum of practice. Most of them provide some level of free access to images of works in their collections in the public domain for personal use and for teaching. Many offer free access for scholarly and academic publications and for research. Some go far beyond this and offer immediate access for any purpose, commercial or noncommercial, with no restrictions. Still others require a contract or contact with a staff member to complete a transaction.

The difference between commercial use and noncommercial use can be a thorny issue. The research from *Defining "Noncommercial": A Study of How the Online Population Understands "Noncommercial Use,"* a Creative Commons study undertaken with support from The Andrew W. Mellon Foundation and published in 2009, indicated that

creators and users approach the question of noncommercial use similarly and that overall, online U.S. creators and users are more alike than different in their understanding of noncommercial use. Both creators and users generally consider uses that earn users money or involve online advertising to be commercial, while uses by organizations, by individuals, or for charitable purposes are less commercial but not decidedly noncommercial. Similarly, uses by for-profit companies are typically considered more commercial. Perceptions of the many use cases studied suggest that with the exception of uses that earn users money or involve advertising—at least until specific case scenarios are presented that disrupt those generalized views of commerciality—there is more uncertainty than clarity around whether specific uses of online content are commercial or noncommercial. (p. 11)

Some museums clearly spell out the criteria for various uses on their websites, and others ask that potential users contact the museum for further information about commercial use. Many museums that charge for commercial use list uses such as commercial publications, television and motion pictures, commercial websites, and various mass-market products (calendars, note cards, etc.). The websites of the J. Paul Getty Museum¹² and the Indianapolis Museum of Art¹³ are particularly clear in their definitions of and charges for commercial uses, and the websites of the V&A¹⁴ and the British Museum¹⁵ point users to their commercial image operations. The websites of the MMA and the Morgan Library and Museum make clear that there are distinctions between commercial and noncommercial use, but do not supply as many details.

¹² http://getty.edu/legal/image_request/index.html.

¹³ <http://www.imamuseum.org/research/image-resources>.

¹⁴ <http://www.vam.ac.uk/content/articles/f/finding-and-buying-images/>.

¹⁵ http://www.britishmuseum.org/join_in/using_digital_images/using_digital_images.aspx.

Los Angeles County Museum of Art

One reason cited by the Los Angeles County Museum of Art (LACMA) for making high-resolution images of works in their collections in the public domain freely available for all purposes was the staff's feeling that decisions about what was commercial and what was not were becoming increasingly difficult and that the museum did not have the resources to monitor commercial use. The Yale Center for British Art, the Yale University Art Gallery, and the National Gallery of Art also make no differentiation between commercial and noncommercial uses. LACMA, the National Gallery of Art, and the Yale Center for British Art offer immediate downloads of images from the Internet, and the Yale University Art Gallery is in the process of implementing a system to do this as well; for now, the user is required to contact the museum. The Walters Art Museum allows free commercial use of the images that have been posted to its website under a Creative Commons license.

LACMA makes nearly 20,000 high-resolution images of works in its collection believed to be in the public domain available through the "search collections" function on its website. These images can be freely downloaded from the LACMA site and used for any purpose, scholarly or commercial. Users may also request images labeled "protected content," subject to terms and conditions spelling out limited personal and noncommercial use.

LACMA staff described a move toward open access that has unfolded over the past five years. Previously, LACMA had a more traditional model of granting image rights. There was a fee schedule, and contact with a staff member was required; however, often fees were waived, and exceptions were made. The LACMA "Reading Room," for which staff digitized a number of out-of-print exhibition catalogues for presentation on the LACMA website, was the first step toward increased access to museum images. The materials in the Reading Room are protected by copyright; generally, LACMA owns the copyright for the catalogs as compilations or collective works, and third parties may own the copyright for images and other content included in the catalogs. LACMA makes the catalogs available for study and general use, but the museum does not grant permission to print or download the documents. The museum made the decision to put this material—much of which had little or no documentation about copyright ownership—on its website without knowing what would happen. Thus far, there have been no issues.

The museum staff subsequently looked at the possibility of open access to images of public domain artworks in its collection. After discussion, they decided that they did not want to make what they were increasingly coming to consider arbitrary decisions about what was commercial and what was scholarly, and that the museum did not have the resources to monitor or enforce restrictions on commercial use. To simplify the process and take a considerable burden off the staff working with the museum's images and copyright issues, the museum made a clear policy decision about access to images, resulting in a pilot project, the Image Library,

which has now been absorbed into the LACMA collection website.¹⁶ LACMA does claim the copyright for the digital images of public domain artworks available for download on its website, but does not impose any restrictions on use. There have been no problems so far.

LACMA staff stated that there were no real objections within the museum to a policy of open access. They cited three factors that they considered prior to implementing open access. First, a museum taking an open access approach must be willing to tolerate the risk that people will use the available images in a manner that the museum might not approve of and will somehow damage the brand of the museum. Second, technological complications must be resolved so that the interface is simple for the user. Third, implementing open access costs money. The museum director's support was also critical.

National Gallery of Art

The National Gallery of Art (NGA) provides open access to more than 20,000 images of works in the public domain in its collection through its web resource, NGA Images, which launched in March of 2012. For now, users can download images up to 1,200 pixels long without registration. Downloading higher-resolution images of up to 3,000 pixels currently requires a simple registration process. The National Gallery plans to eliminate this registration as part of the next phase of NGA Images, as the staff recognize that it is an unnecessary step and a potential barrier to access. The National Gallery also provides a reproduction guide with each downloaded file. The open access policy on the website states that images of works from the NGA's collection that are presumed to be in the public domain can be used for any purpose, scholarly or commercial. In the first six months of NGA Images, there were more than 104,000 downloads of images.

National Gallery staff described the move to open access as a mission-driven decision. Alan Newman, the driving force behind the NGA's policy, described a long process that began in 2004 when he came to the NGA from the Art Institute of Chicago, having been hired to change the NGA's approach to photography and creation of images of works in its collections. After replacing the analog system with digital photography, the NGA set up a standards-based, color-managed system to capture images, creating a workflow that tracked both the direct digital capture of works and the derivative digital files from transparencies and other analog processes.

Early on, Newman was asked to create a ten-year plan for digital image information technology at the NGA. As part of this plan, the museum staff evaluated their approach to rights and reproductions, looking—as Newman put it—at what was legal, what was right, what best served the user, and what was possible within budget. National Gallery staff, including the director, deputy director, and

¹⁶ <http://collections.lacma.org>.

the office of the general counsel, worked together closely to examine what was happening in the field. They also used the expertise of consultant Diane Zorich during the initial phase of evaluating options. Ultimately, they decided that the positives of open access outweighed any negatives.

The planning, software acquisition, and implementation phases of NGA Images took about three years, during which staff from Imaging and Visual Services, and the information technology (IT) and web team worked with the vendor to adapt off-the-shelf software for use at the National Gallery. Newman and Peter Dueker, the digital asset management system manager, met with key staff members and constituencies in the museum and worked with publications, education, curatorial, and other staff to create the current consensus. By the time of implementation, there was internal support for open access to images. Now the NGA is in the process of refining its approach through a functional upgrade and is adding new material monthly.

The National Gallery of Art may charge users for some requested services, such as new photography of works or customized imaging of files and has created a straightforward pricing schedule for these services. These services, which require staff support, are described on the National Gallery's website.

Yale University Art Museums

Yale University announced a policy of open access to its collections in May of 2011.¹⁷ Meg Bellinger, director of the Yale Office of Digital Assets and Infrastructure (recently renamed the Yale Digital Collections Center) described the Yale move to open access as a highly collaborative undertaking that brought together the university's collecting branches—libraries and museums—with the provost's office, the office of the general counsel, the chief information officer, Yale University Press, and others to discuss the meaning of open access, debate the issues, and bring, as she put it, "all the stakeholder voices of the university together." The yearlong process was important to ensure that there was buy-in at the highest level of the administration and that university staff understood the new policy and how to implement it in the developing digital content infrastructure of Yale University.

The Yale policy acknowledges that there are costs involved with the production and distribution of images of works in its various collections and allows its collecting divisions to charge for the service, though not for the intellectual property rights. The two museums in this study, the Yale Center for British Art and the Yale University Art Gallery, do not charge for image requests. Staff of both museums cited strong collaboration between various collecting divisions at Yale as a key factor in the success of the university's open access policy.

The Yale Center for British Art (YCBA) has adopted a simple and straightforward process for access to the database of information

¹⁷ The Yale policy can be found at <http://ydc2.yale.edu/open-access-collections>.

about works in its collection of more than 50,000 paintings, sculpture, prints, and drawings, of which about 80 percent are thought to be in the public domain. About 45 percent of the works in these collections have been digitized, though not all are available on the website. The Center is in the process of digitizing rare books and manuscripts and will make them available under the same terms as works in the other collections. Images are available in three file sizes for immediate download, and no further permission is necessary for their use in any scholarly or commercial purpose.¹⁸ Works that are not yet available on the site can be ordered via a form located on the museum's website. Images of works that are under copyright or otherwise restricted are presented in a thumbnail size, using the guidelines of less than 250 × 300 pixels established by the AAMD. The Yale Center for British Art does not require a credit line when its images are used, but suggests that works be identified as from its collection "so that others may find and use our resources."

The Bridgeman Art Library, to which commercial and "rush" requests were referred in the past, continues to hold images from the YCBA, but the Center has an understanding with the Bridgeman Art Library that it may not charge for licensing of the Center's images. The relationship will be reviewed again in the near future.

The YCBA emphasizes the commitment of the museum to artistic creativity, scholarship, and education on its website, stating:

Scholarship and education are just two of the many endeavors supported by the collections at the Center. Alongside these, the Center also affirms its fundamental commitment to artistic creativity, not only through the nature of its collections, but through access to its resources. This includes the images of works in its collection that are in the public domain and the descriptive information that accompanies them. Wherever possible, the Center aims to make these resources available in as unimpeded a manner as it can administer for as broad a public as it can reach. While respectful of its responsibility to manage intellectual property still protected under copyright, and mindful of commercial exploitation, the Center nevertheless provides free and open access to images of works in the public domain and certain other materials. The Center hopes to encourage further the use and reuse of its public domain resources by all who may have access to them.¹⁹

Prior to the Yale University open access policy, the Yale Center for British Art allowed cost-free use of its images for many purposes. Through internal discussion and talks with the Yale University Art Gallery, opinions within the museum, then across the museums, and finally across the university gradually converged. Although there were concerns about open access on the part of the curators at first,

¹⁸ Users still contact the Yale Center for British Art for permission, however, as some publishers require documentation, and the Center has developed a standard letter for this purpose.

¹⁹ <http://britishart.yale.edu/collections/using-collections/online-collections>.

these were overcome through a series of internal discussions and debates. Curatorial concerns about the use of images have dissipated.

Because the Center had no automated system of image delivery in place before the open access initiative, there was no legacy system, making the technological transition very clean.

Staff at the YCBA cited the strong advocacy of the director as a major factor in the museum's move to open access. They also stressed the importance of having all museum staff who are involved with the museum's collections and images of the collection work together on the project.

The Yale University Art Gallery was also a leader in the Yale move to open access, and the museum adheres to the university policy. The Yale University Art Gallery has developed an automated delivery system through its website, which will launch later in 2013. At that point, files will be available for download without registration, in either a lower resolution suitable for a PowerPoint presentation or in a 20 MB TIFF file, suitable for publication. The museum will supply a larger file for free if necessary. Until then, gallery staff will continue to process requests for images, which will be delivered free of charge and without restriction, and may be used for any scholarly or commercial purpose. The Yale University Art Gallery and the Yale Center for British Art were closely allied in their move to open access, and both have experienced increased interest in their images and in the process by which the two museums arrived at an open access policy.

Since the Yale University Art Gallery moved to open access, requests for images have risen by about 40 percent. As a result, the response time had run up to about five weeks per request, but it is now generally less than two weeks, owing in part to the implementation of standardized form letters and printouts from the digital asset management system, which has speeded up the process. If no photograph exists for the requested object, it will be photographed whenever possible, and no charges are passed on to the requestor. This process generally takes five to six weeks at present. Most of these requests continue to be scholarly, not commercial. Yale University Art Gallery staff emphasized that the museum has deferred other projects and work in order to make open access a reality.

There were some initial concerns on the part of curators and others at the Yale University Art Gallery about losing control of images in the collection and about not knowing where images of objects in the collection have been published, but that has dissipated. Staff continue to be excited about the broader access being provided to users.

The Yale University Art Gallery also uses Art Resource and Scala for commercial requests for the use of their images, and it contributes images to the IAP service of ARTstor as well. The staff of the museum is currently looking at its relationship with for-profit, outside image resources and exploring ways to handle the "fee vs. free" trade-off. Income from such sources is used to further open access projects at the museum.

Metropolitan Museum of Art

The current approach of the MMA to the use of its images grew out of the museum's 2006 strategic plan, which led to a museum-wide initiative developed by a group working across the institution. The MMA provides images through a variety of channels. In late 2011, it launched an updated website. As of January 2013, the MMA had posted more than 540,000 images, of which 398,000 are high resolution. These images are available for personal and educational uses.

The MMA was a pioneer in making fee-free, high-resolution images available for scholarly publication and research through the partnership with ARTstor that created the IAP service. Realizing that it needed a partner to make images widely available and wanting to outsource the infrastructure to a host, the museum approached ARTstor to create this repository of images. The MMA terms on IAP limit the print run for publications to 2,000 and specify that any use of images on a website must be noncommercial. Most scholarly publications do not exceed a print run of 2,000.

The merchandising program of the MMA is active; Art Resource is the MMA's primary agency to license its images for commercial use. The MMA's current budget projects image-licensing revenues to be flat with the previous year.

The MMA has made some organizational changes related to access to its collections. For example, it has consolidated the staff who oversee the digital asset management system and the rights and reproductions staff into one department, creating new position descriptions.

MMA staff cited the mandate and the solid support of both Philippe de Montebello, the previous director, and Thomas Campbell, the current director, as critical to this initiative. The ongoing commitment to the engagement of visitors with both the museum itself and the website is a priority.

The British Museum and the Victoria and Albert Museum

The two London museums in this study, the British Museum and the V&A, provide quick access to images for scholarly, academic, and educational purposes and provide these images free of charge. Each also has a for-profit division that deals with images for commercial use. These divisions generate income for the museums, which have seen cuts in government support in the past decade.

The British Museum offers images of more than 730,000 works in its collection for academic and educational use, subject to clear terms and conditions. The user must complete a simple registration process and must verify during the selection process that the image is to be used for a noncommercial purpose. Some British Museum images are available in high resolution, and others are of lower resolution. The file is e-mailed to the user within two days.²⁰ If the

²⁰ The author's experience was that high-resolution images arrived in about five to six hours.

file is not available, or if the user requires a file of higher resolution, a new file can be ordered for a service fee. Photographs generally take about 28 days. Reproduction in print is limited to A5 size, about 5.8 × 8.3 inches. According to the British Museum staff, the file sizes are adequate for publications, but not for posters. Images may not be used in electronic media. All images must be credited to the museum with the credit line: “© The Trustees of the British Museum.”

The staff of the British Museum had done a great deal of preparatory work in creating a database and digitizing images in the collection prior to offering open access to its images for scholarly and academic use. Although there was some concern among the curatorial staff about inaccurate and incomplete catalog records, there seem to have been no major concerns about losing control of the images in the collection; there is a widespread belief in the museum that images are there to be used. The British Library was once part of the British Museum, and staff cited library culture and the desire to share information as an influence in the way that the British Museum has handled access to its images for scholarly and educational purposes. The commercial arm of the British Museum had a concern about potential loss of revenue, though the museum still charges for commercial use of its images. The decision to offer open access to images was made by the senior executive group at the British Museum. They then informed the trustees, who endorsed the decision.²¹

The British Museum has experienced a 40 percent increase in website traffic over the last year, though this may be due in part to the launch of a site in Chinese. One million users a month access the image database, and this number is increasing.

Like some other museums in this survey, the British Museum has an active merchandising program. It also has a division, British Museum Images, that “is the on-line digital image website of the British Museum catering primarily for the image-buying professional. It offers access to rights-managed images of objects held in the British Museum’s collection. One can search, buy, license and download high-resolution (300 dpi, JPG) digital images for use in publishing, TV, merchandising and advertising on-line.”²² British Museum Images handles requests for commercial use of the museum’s images and generates income through licensing agreements. British Museum Images is currently being integrated into the British Museum digital and publications group.

The V&A has a highly evolved approach to the distribution of its images to various audiences, and this approach has been the subject of extensive writing over the course of the past few years.²³ In 2007, the trustees of the V&A made the decision to eliminate licensing fees for images used for broad educational purposes in order to

²¹ Antony Griffiths, former keeper of prints at the British Museum, has said that the decision to publish the database of the collection online in 2004 was controversial and that the curators had concerns about doing so (Leefflang 2009). He made similar comments in an address at CODART, available online at <http://www.codart.nl/491/>.

²² <http://www.bmimages.com/aboutus.asp>.

²³ The two key articles are Smith (2009) and Maron (2011).

support research on the museum's collection. Through its "search the collections" function, the V&A website offers access to more than 300,000 images of works in its collection, all of which are free for personal, scholarly, and academic use, and for use in publications up to a maximum print run of 4,000. Commercial requests, and requests for use in publications with large print runs, are handled through the V&A Images website, which is a fee-based resource.²⁴ V&A Images has between 30,000 and 40,000 images available, none of which is under copyright. The V&A's approach is informed by the fact that they are a publicly funded institution and want to provide access for educational and scholarly purposes for free. However, the staff has also recognized that there are costs associated with the production and maintenance of digital images of the collection, and commercial uses are licensed through V&A Images. Traffic to both the "search the collections" portion of the V&A website, and to V&A Images has increased significantly.²⁵ The number of visitors to the museum has also increased.

The V&A is an excellent example of a museum with a clear and successful "fee and free" system, though the solution was not easily realized. From experience and a significant change in its approach and organization, the V&A learned three important lessons, which Maron (2011) outlined in her case study. First, "aligning revenues with costs is essential." Second, "fee and free models for digital content can co-exist," but they need to be clearly differentiated. Third, it is critical to "focus on the value proposition of a service: how it performs something in some way that is essential to others without duplication of the work done elsewhere." Through staff reorganization and downsizing and a clearer mandate regarding commercial use, V&A Images turned a profit for the first time during the fiscal year ending in March 2012. Maron's case study outlined the process by which V&A Images was downsized and rethought. The staff of V&A Images had been supporting other departments of the museum by providing services to academic researchers and non-paying audiences. In 2011, all activities deemed noncommercial were turned back to other departments of the museum, and the mandate of the staff of V&A Images is now to generate revenue, which in turn supports the programming of the museum.

Walters Art Museum

About 12,000 images from the collection of the Walters Art Museum are available for download for any purpose from the website under a Creative Commons license. The Walters Art Museum also makes images available through the IAP service of ARTstor and has uploaded 19,000 images to Wikimedia that are suitable for electronic

²⁴ <http://www.vandaimages.com>.

²⁵ There are about four times as many online visits to "search the collections" as to V&A Images.

use, though not for publication purposes. For publications with print runs under 2,000, the museum will send a free high-resolution file.

The current Walters approach grew in part out of a grant application to the National Endowment for the Humanities (NEH) to digitize a part of the museum's manuscript collection. The proposal stipulated that the digitized images would be available under a Creative Commons noncommercial license. After the initial grant, the Walters was awarded two subsequent grants from NEH for digitization of their manuscript collection. Now the museum has taken the approach of open access for any purpose for its collection on the initiative of Gary Vikan, the former director, who felt that because the collections belong to the city of Baltimore, both the collections online and in the museum itself should be free. Division directors at the museum looked at the issues involved with granting greater access and created a smaller working group of affected staff. Some had concerns about the consequences of open access and the loss of control of images, but over time these concerns dissipated. Staff stated that the loss of control had been a topic of discussion several years ago, but that now it is not.

This move to free downloads was done in tandem with an upgrade of the website. The available images are high resolution and, in the case of the manuscript files, are archival-quality TIFFs. The Walters does charge for new photography if it is required. Users may also apply to the photographic services/rights and reproductions department for digital files of higher resolution or for works without images online.

Staff members described changes in job responsibilities based on the change to downloadable images, and some staff are spending more time on training other staff on the use of the digital asset management system than on filling image orders. Walters staff members noted an ongoing discussion within the museum about the fact that there are costs associated with providing information and images, and that the museum might consider suggesting a donation from users. But thus far, it is just a discussion.

The Walters Art Museum cannot track downloads from its site, but the online audience has grown exponentially over the past two years—from about 200,000–250,000 unique visitors per year to about one million.

The following three museums in this survey provide images in different ways, ranging from direct download from the museum's website to a process requiring interaction with a staff member. Two of these museums provide images free of charge for scholarly and educational purposes. One is moving toward a policy of open access; another is watching the experience of others and weighing options; and a third is committed, at least for now, to maintaining a revenue stream to help offset costs.

The Indianapolis Museum of Art

The Indianapolis Museum of Art (IMA) does not charge for personal, educational, or scholarly use of images of works in its collection or for use in a noncommercial publication with a print run of up to 5,000.²⁶ The museum does charge fees for commercial publications, as well as for other commercial uses. Each request is reviewed on a case-by-case basis. Use of an image from the IMA's collection generally requires a contract and payment of applicable fees, though lower resolution images for personal use or PowerPoint presentations are frequently exempted. The IMA requires use of the credit line supplied by the museum. Updated in the spring of 2013, the policy and fee schedules are clearly presented on the website. Changes to the IMA's approach and fees resulted in new and expanded position responsibilities for the rights and reproductions manager at the museum, who is a one-person department. Unlike other museums in this study, the IMA's revenue from commercial use of its images has actually risen since it announced a policy of free access to images for scholarly and educational purposes. Staff attributed this to the growing recognition of the museum and its collections under previous director Maxwell Anderson.

The IMA is part of the IAP service of ARTstor. According to Anne Young, the rights and reproductions manager, the IMA's primary concern is not control over its images, and the museum is not dependent on the fees earned from the commercial use of images. The museum tracks its image use with contracts because the curators want to know where images of works in the collections are being published. The museum's participation in ARTstor was a catalyst for discussions of open access, which are continuing within the museum. Young did express the IMA's desire to be a leader in open access.

The IMA has used technology in an engaging and astute manner. It is working toward implementation of a new digital asset management system and has recently launched a redesigned website with a new format for the collections pages. Staff at the museum consider both the redesigned site and a new digital asset management system critical to any move to open access. The IMA Lab, the media and technology arm of the IMA, is a leader in museum technology, working with both the IMA and other museums to develop solutions to technological challenges in museums. The museum is also a leader in social media participation and uses a number of services and websites—Twitter, Pinterest, ArtBabble, Artfinder, Artsy, Facebook—as well as image sites such as the Bridgeman Art Library and the Google Art Project to highlight its collections.

²⁶ This is not a firm limit, and the IMA will routinely allow free use of an image in publications with print runs of more than 5,000 if there is a scholarly intent.

Morgan Library and Museum

According to the staff of the Morgan Library and Museum, the Morgan would like to make its works more available to both its scholarly and general audiences in keeping with its evolution toward greater accessibility over the past 20 years. The Morgan is a relatively small institution with an extremely varied and complex collection. There are 300,000 works, which would yield millions of digital files as many are manuscripts or other multifaceted works. Creating and maintaining the metadata for these objects are tremendous challenges. The staff of the Morgan recognizes that electronic access is well suited to the nature of the Morgan's collection of manuscripts and works on paper, as the works are infrequently on view and digital surrogates are the only way to see the entire work at once. The Morgan has some experience with digitization of its collection, beginning with grant-funded work in 2008, and also for its exhibition program. Some of its art collection is available digitally through the subscription database of the Index of Christian Art project at Princeton University.²⁷ Scholars are the current drivers of demand for images from the Morgan's collection.

The Morgan's revenue of about \$100,000 annually from imaging fees covers part of the department expenses. Users wanting images should contact the Morgan for any proposed use, and each request is considered on a case-by-case basis. Currently, the Morgan charges for images of works in its collection via a three-tiered pricing system. Scholarly requests are priced as low as possible while still allowing a level of cost recovery. Requests for publications with print runs up to 5,000 have higher fees, and commercial requests are referred to Art Resource for fulfillment.

There is as yet no formal policy regarding access to images. Staff of the Morgan described this as a transition time for the institution with regard to decisions about access to the images in their collections. They want to take a thoughtful approach to any change, taking into account not only access to and preservation of the collection, but also the recovery of the costs of making the collection accessible. Morgan staff realize that scholars have high expectations for access to images today and that "everyone just expects more at this point." They also believe that there is interest at the Morgan in open access to images for scholars and educators, and that decisions are more related to technological, financial, and human resources than to philosophy at this point. The staff is small, which makes providing open access more complicated, and the revenue is not negligible for the museum.

The Morgan allows readers to bring digital cameras into the reading rooms to take photographs if there is no issue with fragility or with copyright of the works.

²⁷ <http://ica.princeton.edu/>.

J. Paul Getty Museum

The J. Paul Getty Trust, which operates the J. Paul Getty Museum and the Getty Research Institute (GRI), allows direct download of images from its website for personal, educational, and noncommercial purposes, and for fair use. Requests for any other uses must be made in writing and are approved on a case-by-case basis. The Getty Museum and the GRI handle requests for the scholarly, publication, and educational use of their images,²⁸ and the retail and merchandise development department of the Getty Trust handles requests that are considered commercial.

The Getty Trust is working toward a “self-serve” approach to images of works in the public domain in the collections of the Getty Museum and the GRI. Recently, the Trust posted a uniform fee schedule for use of these images on its website. There are three different electronic request forms for the use of Getty Museum images available on the website—one for study and research purposes, one for print publications, and one for electronic media—and the completed request forms go to the Getty Museum registrar’s office for processing. The museum charges a nominal amount for the use of its images in scholarly publications and journals. Getty Museum curators are concerned with the use of images of works in the collections, and the museum reserves the right to approve the final image in the publication. Curators also want to track the publication of works in the collections.

The Getty Museum does want to earn some money from rights and reproductions, and plans to continue to charge for use of its images in many contexts. Future annual revenue is forecast at about \$20,000, exclusive of merchandising rights.

The retail and merchandise development department of the Getty Trust considers each request for commercial use of the Getty’s images and requires curatorial approval, color matches, production samples, and other checks. Many of these requests are for products and merchandise related to an exhibition or project in which some program of the Getty Trust is involved.

The J. Paul Getty Museum has images in ARTstor and is a participant in the Google Art Project.

Museum Experience with Open Access

For the purposes of this study, “open access” generally means that images of collection works exist in a digital format, are available online and free of charge, and are free of most copyright and licensing restrictions, though this is not a hard and fast definition. Because open access to museum images is still an evolving practice, the approaches taken by the museums in this study have varied

²⁸ Although the fee schedules for the GRI and the Getty Museum have recently been consolidated and standardized, users contact the GRI for images from its collections and the JPGM for images of works in the museum’s collections. This is clearly spelled out on the website. The GRI also contributes images to the IAP service of ARTstor, but the Getty Museum does not.

greatly. Few can point to an “aha” moment. For most, it was a more iterative and collaborative process, with many stakeholders working together to come up with an appropriate approach. The process by which these museums reached a policy of open access is instructive for other institutions considering an open access approach.

Catalysts

The museums in this study began thinking about open access for different reasons and in different ways. In some cases, it was the director’s conviction that collections should be freely and easily available online. In other cases, the impetus for change came from someone else in the organization, though senior-level support is always critical. Most museum staffs described an evolution of thought within the institution.

At the Walters Art Museum, two factors led to a change in approach. First, Gary Vikan, who was then director of the Walters, believed that because the museum’s collection belongs to the city of Baltimore, information about the collection should be freely available to everyone. Second, William Noel, who was then manuscripts curator, submitted a grant application to NEH for a project to digitize museum images in which the images would be openly available through a Creative Commons noncommercial license. The Walters took its first step toward open access to the collections online at the same point that the decision was made in the fall of 2006 to provide free admission to the museum itself. Ultimately, NEH gave the Walters almost \$900,000 in grants to digitize manuscripts in its collection.

In 2004, the National Gallery of Art brought Alan Newman from the Art Institute of Chicago to change the way in which the NGA handled photography and reproduction of its collections. Newman had gone through the transition from analog to digital at the Art Institute of Chicago and oversaw the conversion of the photo laboratories at the National Gallery into scanning and digital printing facilities. Once the systems had been updated, staff at the NGA began to examine the rights and reproductions function as part of its digital image information technology plan, and the museum decided that its future system would be self-service, easily accessible, and free.

For the Indianapolis Museum of Art, the catalysts were the impending contribution of IMA images to the Images for Academic Publishing service of ARTstor, the arrival of a new rights and reproductions manager, and a highly technologically competent senior management. Anne Young, the rights and reproductions manager; Katie Haigh, the deputy director for collections, research, and exhibitions; and then director Maxwell Anderson decided to waive fees for use of images in educational and scholarly publications up to print runs of 5,000.

At the two Yale University museums, the directors, Amy Meyers at the Yale Center for British Art and Jock Reynolds at the Yale University Art Gallery, were both early proponents of open access

within the university. However, both realized that their museums needed to be part of a larger initiative and participated in the yearlong process to create the university-wide policy.

Staff at the British Museum described the curators and the senior management group as being the drivers of the decision to make the collection easily accessible online for scholars and educators.

At the J. Paul Getty Trust, the arrival of a new president interested in making the Getty's intellectual assets as available as possible to scholars and researchers was described as one of the catalysts for a change in approach. Their fee schedule is integrated across the collections of the J. Paul Getty Museum and the GRI.

Staff of many museums cited the leadership of their directors in making a change. The staff of the MMA also cited the museum's strategic planning process of 2006 as having been an important catalyst. At LACMA, the move to open access seems to have resulted from a combination of a museum staff that was moving in that direction and a director who was driven to make collections as accessible as possible.

Process and Decision Making

Each museum described a different thought and decision-making process that led to its current approach to open access. Although most described "doing the right thing" and "mission-driven decision" as part of their thought process, for some it was primarily a philosophical decision. For others, it was also a business decision. Technology and established systems often made the decision easier for some museums that had digital asset management systems and a way to begin to automate their process and create a "self-serve" model. Many also wanted a clear process and a clear policy regarding the use of images.

Staff at many museums cited the following critical factors:

- Revenue was on a downward trajectory.
- They were increasingly uncomfortable drawing the line between scholarly and commercial uses of their images.
- Senior leadership agreed with an open access approach.
- Technological innovations enabled images to be made accessible with greater ease.

At the British Museum, staff felt that the process of making images freely available online for scholarly and educational purposes was quite easy for them, in part because considerable groundwork had been done and in part because the fact that the British Library had once been part of the British Museum influenced the museum's operational culture.²⁹ Libraries in general exist to make information available to their audiences, and they have been in the vanguard of the open access movement. Concerns about the British Museum's open access approach came from the commercial division of the museum, though even its staff was in favor in principle. The senior

²⁹ The values statement of the British Library online emphasizes sharing information. See <http://www.bl.uk/aboutus/stratpolprog/2020vision/values/index.html>.

management and curatorial staff of the British Museum had done work in imaging, digitization, and online cataloging, and they moved forward with greater access to the museum's images online. Open access was an evolution in their thought process.

At LACMA, the decision was driven, at least in part, by the fact that the process of managing images had become onerous. The museum was generating revenue through image fees, but there were constant exceptions to the guidelines.

For the Yale museums, the decision-making process was university-wide, which made it more demanding, but more encompassing in the end.

Overcoming Concerns

Art museums have controlled access to their images for decades, and shifting from a position of control—knowing where, when, how, and by whom images of works in the collection are used, and licensing the rights to use them—to a position of open access does not happen without concerns. Museums have overcome these concerns in different ways. For the MMA, participating in both the IAP service of ARTstor and, more particularly, the Google Art Project were important milestones. Some staff members had felt trepidation about the museum's participation. When, as one staff member said, "The sky didn't fall in," participation in the Google Art Project laid the groundwork for a greater degree of open access. Staff of the Walters Art Museum also commented that "the sky didn't fall in" regarding the open access to images in the museum's Islamic manuscript collection.

For other museums, the curators were concerned about the consequences of loss of control. In the case of the Yale Center for British Art, Amy Meyers, the director, a strong advocate of open access, led a number of conversations with museum staff, especially the curators, to discuss outcomes related to loss of control of the Center's images. These conversations gradually led to staff members' embracing the concept of open access. Alan Newman of the National Gallery of Art used the example of the NGA's portrait of *Ginevra de' Benci* by Leonardo da Vinci. On a search of Google Images, the NGA's authoritative image was nowhere near the top of the list of images returned, and many of those higher on the list were poor representations.³⁰ The NGA had already lost control of many images of its most famous works of art, and it was better to make a high-quality, high-resolution image available. The ability of curators to track publication and citations of works in the collection lingers as a concern for staff of several institutions.

As is frequently true in regard to changes, the shift to open access produced concerns with technology as well. On a basic level, museums needed to ensure that their metadata were clean and well organized before launching a search function on their website. Most

³⁰ The National Gallery's file is now generally in the first 20 on the list of images returned on Google Images.

museums also needed a digital asset management system and a plan for integrating access to the collections and downloads with the museum's website.

Loss of revenue had to be considered in any decision to move to open access, even though for many of these museums, revenue was not a significant factor. As has been shown in past studies, only a few museums receive significant income from their rights and reproductions operations. Three that do, however—the British Museum, the V&A, and the MMA—are included in this study, and all three continue to license images for commercial purposes.

There is the still partly unresolved issue of third-party relationships with image banks and other commercial sites, as well as with social media sites. Users get information from many sources, and many museums are still thinking through what this means for access to their images. In some cases, these museums have complex and longstanding relationships with commercial websites. Although some are thinking about extricating themselves from these relationships, others are comfortable with maintaining several channels of distribution and dealing on a case-by-case basis with patrons who discover that they have paid for content that they could have obtained for free on the museum's website. Overall, this was not cited as a major concern.

Outcomes

Real and perceived gains far outweigh the real and perceived losses for every museum in the study that has made a transition to an open access approach.

Staff of virtually every museum in the survey mentioned the goodwill and recognition that have come with open access, as well as a sense of satisfaction at helping to fulfill the mission of the institution. Although most museums have not followed a policy of open access long enough to have significant data about the use of their images, there is evidence, mostly anecdotal, that their images are appearing more often in a variety of contexts. Museums are collecting data about downloads and use, and in a few more years, they will have more measureable data about image use. Many of the museums in the study have recently revamped their websites, and in many cases, there are not apples-to-apples comparisons regarding visits to websites, nor is there a lot of comparative data for downloads of images available in many cases. However, virtually every museum reported increased website traffic, as well as what they considered a significant interest in the available images. Website visit increases ranged from about 20 to 250 percent, with many museums reporting increases of at least 100 percent.³¹

In some cases, curators are fielding better and more interesting inquiries from scholars and the public about the works in the

³¹ Given the presence of museum collections on Wikimedia, Flickr, and other social networking sites, one museum technologist interviewed suggested that counting visits to a website may no longer be a valid measurement, as the goal may no longer be to drive traffic to the museum's website.

collections as the available higher resolution images yield more detail about the works.

There is, generally, greater clarity about policies at many museums. In some cases, the instructions and terms and conditions on the website were de facto the institutional policy, and a move to open access forced staff to think through their policies and the implications.³²

Last, as a perhaps unintended consequence, but clearly a gain, one museum reported that with emphasis on digital images and access to the collection, technology skills among the staff have increased. The tolerance for poor technology skills at the museum has become decidedly lower.

Real and perceived losses were minimal and were, for the most part, due either to the fact that this is an ongoing process or to temporary operating situations that will change in the future.

At the Yale University Art Gallery, a 40 percent increase in requests for images from the collections has meant a commensurate increase in workload for the staff. The gallery is launching an automated delivery system for its images later in 2013. Other museums without automated delivery systems also cited an increased workload as an outcome of easier access.

Most museums in the survey report stable or lower revenue from rights and reproductions, which is to be expected. In some cases, their revenue streams had already been on a downward trajectory. In others, the revenue had never been a significant factor. Annual gross revenue from image services at these museums ranged from less than \$20,000 to more than \$400,000. In some cases, the revenue has dried up almost completely, and the administration of the museum has made budget adjustments.

The staff of some museums that do not require a contract, or contact with a staff member, mentioned that they are no longer completely confident that they know where, and by whom, images of objects in their collections have been published. Staff of one institution mentioned that curators and staff had been meticulous about tracking citations of object images but that they now felt that they might not know about the publication of the museum's objects. However, staff of another museum mentioned that its curators were confident that they knew who was working in the field and what was being published.³³

Key Findings

The key findings from this study are largely consistent with the conclusions of previous studies. They also provide ideas and lessons for museums that are considering a move to an open access approach. The experiences and reflections of the staff of the museums

³² In the case of the MMA, the terms and conditions on the website continue to be the policy, but staff did not see the lack of a formal policy as a concern.

³³ One expert in the field not affiliated with a museum suggested that museums just ask authors and scholars as a courtesy to supply bibliographical information.

in this survey begin to provide a road map of practical steps and approaches.

Providing open access is a mission-driven decision. The decision to provide open access to collection images is not a technological or a legal decision, though both considerations come into play. Virtually every staff member of every museum in the study emphasized that museums exist to educate and serve their various audiences and that providing access to images of works in the collection is part of the institutional mission.

Even the V&A and the British Museum, institutions with highly developed systems for generating revenue through commercial use of their images, have made clear decisions about making images available for free for personal, academic, and scholarly purposes. In addition, they have made access to digital files of works in the public domain in their collections simple.

The use of images for classroom teaching, and for scholarly and academic publications in specified contexts, can be seen as a “line in the sand.” Most museums will provide these images cost-free or charge only to cover the internal cost of providing the service.

Different museums look at open access in different ways. The phrase *open access* is interpreted in many ways. The National Gallery, LACMA, and the Yale Center for British Art offer immediate downloads of high-resolution images that can be used for any purpose. The V&A and the British Museum have immediate, or very rapid, downloads for personal, scholarly, and academic purposes. At present, the Yale University Art Gallery provides cost-free access to images to be used for any purpose through contact with the staff of the museum. The MMA offers images for immediate download for scholarly and academic purposes through the IAP service of ARTstor, and for educational and personal use through its own website. The Walters Art Museum provides images through both direct download from its website and through Wikimedia. It will also provide high-resolution images through contact with a staff member. The Indianapolis Museum of Art generally requires a contract, but does not charge for educational, personal, or scholarly use, or in scholarly publications up to a specified print run.

Some museums have the technological, financial, and human resources to make the leap to open access in one step, providing free, immediate, high-quality downloads of collection images. Others are taking the process in steps as resources and time permit. At this point, most museums in the study will waive licensing fees for academic and scholarly use, and those that do not are studying the experience of others.

Internal process is important. The decision to provide open access to images can affect many people in a museum—technology and photography specialists, rights and reproduction coordinators/managers, administrators, finance and human resource staff, and

curators and conservators. Each is a stakeholder in the process, and each needs to understand and participate in the decision making. Potentially, some of these staff members could lose their jobs or see their positions change radically, and the human aspects of making a change cannot be underestimated.³⁴ When the Yale Center for British Art decided to provide open access, the number of staff members did not change because they had ramped up staffing during the digitization initiative; however, the staff member responsible for rights and reproductions now spends more time dealing with what is not represented online rather than what is. At the IMA, the position of the rights and reproductions manager has changed significantly, and she now has more responsibility than she did previously. At the Yale University Art Gallery, the workload of the staff responsible for rights has increased, as requests have risen by 40 percent.

Additionally, senior-level commitment is critical. The leadership of senior staff is key to the success of every major initiative in a museum, and a museum's approach to the use of its images is no exception. Staff from all of the museums in the study cited the support of either the director or another high-level staff member as important to the approach that the museum was currently taking. Of the two museums in which the director's support was not cited, one had no director at the time, and the other was just beginning to explore the subject of open access. The museum director was not always the catalyst for the move to open access, but the director or another senior-level staff member was always a champion.

Loss of control fades as a concern. Many museums have long held control over images of the works in their collections, hoping to ensure that their images are not used in a manner considered inappropriate by museum staff and that image use reflects well on the artists, the works of art, and the museum itself. Museums have also had concerns about the cropping of images and about their presentation in printed and electronic media. Some museum staff members, particularly curators, had legitimate questions and concerns about providing open access to images in the collection, such as what that might mean for the museum and how the collection might potentially be used in an inappropriate manner. However, the worst fears of museum staff have not been realized. No one cited inappropriate uses of images thus far.

Seven of the eleven museums in the study are part of the Google Art Project, which means that images of many of the works in their collections are already available online. Many of the museums have contributed images to Wikimedia or other social media sites. Most

³⁴ Christine Kuan (2012), formerly of ARTstor, recently wrote, "The roles of rights and reproduction departments, collection management departments, and related functions in editorial, photo studio, or new media become exponentially important to museums as they seek to augment their presence on the Web. Museum experts in these areas become indispensable agents in connecting the museum to the world at large" (pp. 6-7). Staff may not believe or understand this, however. Several people surveyed, including one museum director, mentioned the potential effect on staff.

have, or have had, relationships with third-party image banks that have licensed content for commercial purposes for many years, and the experience has not been negative. Many of these museums allow photography in their galleries and study rooms. For most museums, there was already a body of experience related to the release of collection images.

For curators at the Walters Art Museum, loss of control was a concern, but that concern faded quickly. According to staff there, it was discussed five years ago, but no one mentions it now. William Noel, the Walters' former curator of manuscripts, wrote, "We have lost almost all control, and this has been vital to our success."³⁵

Staff of the Morgan Library and Museum, which is near the beginning of its thought process about moving to open access, pragmatically pointed out that "this [the loss of some level of control] is where the Web is taking us." They also recognize that their collection is ideally suited to digital access, as much of it is rarely on view.

Staff of museums that charge for commercial use of their images stated that, in general, they do not actively pursue claims against those who use the museum's images without authorization. Most users seem to follow the published process, and no museum cited unauthorized use as a major problem. Getty staff will pursue claims against unauthorized users of images of works still under copyright in the collection. V&A staff will follow up if the museum was portrayed in a bad light or if the use was egregious, but they said that for the most part, users are respectful.

Museums that allow immediate download of images for any purpose view tracking bibliography and knowing where their objects have been published as an active concern. But all staffs expressed a belief that they would be able to resolve this issue, and none considered it a reason to back off from open access.

Technology matters. A decision to provide open access to images is not based on the technology that an institution has in place; however, having clean and complete metadata, an effective digital asset management system, generally solid museum technology, and the staff to manage all of these systems and data are important. The process of creating and maintaining high-quality metadata for the collections is complicated, and some museum staff members view the creation of these metadata as a challenge.

Not all museums have adequate technology and staff for a move to open access. One interviewee said that she felt that more museums would find a way to create broader access to their images if they had a technological tool that could take them from an "archaic, mediated, plodding process" to a self-serve model. When asked about this, staff at virtually every other museum agreed.

A move to open access may mean a management decision to reprioritize technology, placing it ahead of other projects of the museum, and staff members need to be prepared for any such change in priorities.

³⁵ Personal communication with author, April 12, 2012.

Revenue matters less than many institutions think it does. Cost recovery and even, in some cases, net income from commercial licensing activities are important considerations for museums. Although a past study has shown that virtually no museum rights and reproductions operation is a profit center (Tanner and Deegan 2002), and although museums generally acknowledge that their obligation and desire to provide information about the collection in as open a manner as possible trumps revenue concerns, revenue remains a topic of interest to many museums today.

As noted earlier, museums in this study had gross annual revenue from image sales and licensing ranging from less than \$20,000 to more than \$400,000. Even those museums that have taken an open access approach to their public domain images may retain a small bit of income if they have a relationship with one of the image services such as the Bridgeman Art Library, Scala, or Art Resource. For the most part, an open access approach to distribution of images means that income falls. In the case of museums with a small income stream or museums with large budgets, this is less of a concern, but it could be important to some museums.

Almost all museums in this study do have a relationship with the Bridgeman Art Library, Scala, or Art Resource, and seven of the eleven are part of the Google Art Project. Some, but not all, of the interviewees mentioned these relationships with third-party image providers and the way in which open access, or at least access provided directly by the museum, has begun to affect their interactions. Some consider it better to have their images accessible in as many ways as possible. Others expressed concern that it was confusing to users and mentioned instances of users wondering why the same images were available for free and at a cost. Some museums, such as the MMA and the Morgan Library and Museum, refer requests for commercial use of their images to Art Resource. No one considered these third-party relationships to be problematic at present, but many acknowledged that they would need to consider the future of these associations.

Income from licensing is (or was) either on a downward trajectory or stable for most of the museums in this study. The Indianapolis Museum of Art is an exception; so are the British Museum and the V&A, both of which actively market licensing of their images for commercial purposes.

Change is good. No museum that has made the transition to open access for the images in its collection would return to its previous approach. Although challenges are still being resolved, such as the additional workload and the potential uncertainty about where images of works from their collections have been published, museum staff cited the satisfaction that comes from fulfillment of the museum's mission as a tremendous positive. Most institutions are experiencing greater internal (and in the case of the Yale museums, university-wide) collaboration than in the past between museum departments and attribute this in part to their move to open access.

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Further Readings

Kenneth D. Crews, director of the Copyright Advisory Office at Columbia University Libraries, published the comprehensive *Art Image Copyright and Licensing: Bibliography* in 2010 with funding from the Samuel H. Kress Foundation. The document is available online at <http://copyright.columbia.edu/copyright/2011/06/27/copyright-museums-and-licensing-of-art-images/>.

The following list includes only those works published since Crews's bibliography was published, and those works that are of greatest relevance to this study. Because museum approaches to image use are changing rapidly, articles only a few years old are of more historical than current interest, though many of them have contributed greatly to the present interest in open access to images.

Copyrights, Wrongs, and the Creative Commons. Presentation at the annual meeting of the American Association of Museums, Minneapolis, 1 May 2012. Session Chair: Daniel Dennehy. Presenters: Kenneth Crews, Pamela McClanahan, Nancy Sims, and John French. Available at <http://www.prolibraries.com/aam/?select=speaker&speakerID=43039>.

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APPENDIX A

Survey Questionnaire

The following questionnaire was sent to each museum that participated in the study in preparation for onsite interviews. Although the use of a museum's images for external communications purposes is an important part of a museum's outreach function, it is not addressed in the questionnaire; the use of museum images for public relations was not part of the research.

Survey Regarding Current Museum Policy on Image Rights

These questions will help me to understand the museum's policy on image rights, the reasons why the museum has taken this approach to providing access to the images of works in the collection, how this policy was determined, any key changes that may have been made, and the implications of any changes. The more specific the information provided, the better and more useful this study will be.

Specific information will be kept confidential and only used in aggregate or for general comments if requested.

Policy Formulation

What is the current policy of the museum regarding the use of images of works in its collection in the public domain? Is it posted on the website and easily available? Has this policy changed recently? If so, when?

Describe the museum's approach to the use of images for:

- scholarly research and publication purposes (scholarly publications up to a specified print run)
- other educational or not-for-profit usage (college and university teaching, K–12 education, and other not-for-profit use)
- commercial usage (any usage through which the user could potentially earn money or through which the image could be associated with a for-profit concern)

If the museum has chosen to treat these three usages (or others I have not identified) with different approaches, please explain why. That is, if the museum does not charge for images for scholarly publications and for educational purposes, but does charge for commercial uses, please explain.

Decision-Making Process

What is the rationale for the museum's current policy? What was the decision-making process, and how long did it take?

If there have been recent changes to the policy, what are they? Was there a precipitating event? Who was responsible, and who was involved in changing the museum's approach?

Were there initial concerns expressed over any changes that have been made? If so, how were they overcome? Have there been any reservations about having made this change?

Internal Museum Processes

How does the museum handle requests for the use of its images?

Do separate departments of the museum handle requests for images based on the end use requested?

If the museum has changed its approach to the use of images of its works in the public domain, are there changes in staffing, position descriptions, workflow, budget, or issues related to revenue generation?

Effects and Outcomes of a Policy Change, if Applicable

If the museum has changed its policy regarding access to the museum's images, have there been real or perceived gains or losses from this change? If so, please describe them.

Are there comparative statistics on the number of visits to the museum's website, inquiries about images, or use of images from the collection before and after any change the museum made?

Are there changes in the museum's gross and/or net revenue?

In retrospect, would the museum consider changing anything that it has done in any way? This might include changing the process by which the decision was made or even the decision itself.

Has there been a real or perceived loss of control of the museum's images? If so, does that matter?

Have there been other unexpected or unintended consequences, positive or negative, to be shared?

What have I missed?

What have I missed that is key to the understanding of the museum's policy?

APPENDIX B

List of Participating Museums and Summaries of Their Terms and Conditions of Image Use

| MUSEUM | SUMMARY OF TERMS AND CONDITIONS |
|--|---|
| <p>British Museum Great Russell Street London WC1B 3DG http://www.britishmuseum.org</p> | <p>Users may directly download and use images conditional on the British Museum's standard terms. Users must be an individual, charity, trust, or other non-profit. The image must be used for education, research, or academic purposes. Print publication approval is for one-time use only for noncommercial purposes with a print run of not more than 4,000. Uses must not reflect poorly on the British Museum. No electronic use of high-resolution images is permitted. Reproduction must not exceed A5 size (about 5.8 × 8.3 inches). All images must be credited as follows: © Trustees of the British Museum. Image licensing for commercial purposes is handled through www.bmimages.com.</p> |
| <p>Indianapolis Museum of Art 4000 Michigan Road Indianapolis, IN 46208 http://www.imamuseum.org</p> | <p>Reproduction of works from the IMA's collection generally requires permission of the IMA. There is no charge for educational, personal, and scholarly use or for use in noncommercial publications with print runs of up to 5,000 (or more under certain circumstances). Commercial use is subject to a fee. Preparation fees may apply if new photography is required. Images must be credited with information supplied by the Indianapolis Museum of Art. The IMA supplies images to the IAP service of ARTstor.</p> |
| <p>J. Paul Getty Museum 1200 Getty Center Drive Los Angeles, CA 90049 http://www.getty.edu</p> | <p>The J. Paul Getty Museum considers only requests for use in scholarly, educational, or noncommercial publications. Requests for potential commercial use are referred to the department of merchandise development and retail operations of the J. Paul Getty Trust and are handled separately. There are different terms for different proposed uses, but all require written permission to publish, forbid duplication of the file without approval, stipulate one use, and forbid alteration of the image. A credit line is required. In some cases, the museum must approve the final image prior to publication.</p> |
| <p>Los Angeles County Museum of Art 5905 Wilshire Boulevard Los Angeles, CA 90036 http://www.lacma.org</p> | <p>LACMA provides a selection of images of varying resolutions of works believed to be in the public domain free of charge and for use without restriction. No further authorization or communication is required.</p> |
| <p>Metropolitan Museum of Art 1000 Fifth Avenue New York, NY 10028 http://www.metmuseum.org</p> | <p>For MMA images in the IAP service of ARTstor, use is permitted for scholarly and academic publications with print runs of 2,000 or less and the archival copies of these publications in JSTOR or similar archives, for educational websites without paid advertising, and for commercial subscription websites with no more than 2,000 subscribers. For images from IAP, the MMA requires that any credit lines and copyright notices be kept intact. Materials downloaded from the MMA's website are made available for limited noncommercial, educational, and personal use only, or for fair use as defined in the U.S. copyright laws. The MMA requires the citation www.metmuseum.org in the caption information. Art Resource is the primary contact for commercial use of MMA images.</p> |

| MUSEUM | SUMMARY OF TERMS AND CONDITIONS |
|--|---|
| <p>Morgan Library and Museum 225 Madison Avenue New York, NY 10016 http://www.themorgan.org</p> | <p>The Morgan Library and Museum grants permission to use its images for one time, one publication, one edition, in one to three languages for five years. The image must be credited as "The Pierpont Morgan Library, New York" with the accession and detail information as specified by the Morgan. Reproduction may be made only from media provided by the Morgan and must match the color-corrected images. All requests are approved on a case-by-case basis. Commercial requests are referred to Art Resource for processing.</p> |
| <p>National Gallery of Art 4th and Constitution Avenue, N.W. Washington, DC 20565 http://www.nga.gov</p> | <p>Images of many works of art believed to be in the public domain from the NGA's collection are available from NGA Images for any use, commercial or noncommercial, and no further authorization is required. The NGA asks to be credited, "Courtesy National Gallery of Art Washington." Users should not suggest or imply that the National Gallery endorses or approves the projects for which the images are used.</p> |
| <p>Victoria and Albert Museum Cromwell Road London SW7 2RL http://www.vam.ac.uk</p> | <p>Free high-resolution image download is determined by use rather than by user. Images can be downloaded for academic and scholarly publications, student theses, study and research, editorial use, and nonprofit newspapers. Publication use is limited to one time with a print run of 4,000 copies or fewer. Images may also be downloaded in lower resolution for noncommercial, personal use. There can be limits on size and number of images used from the V&A's collections. V&A Images, www.vandaimages.com, licenses use of the images in commercial publications, academic publications of more than 4,000 copies, and in any electronic media.</p> |
| <p>Walters Art Museum 600 N. Charles Street Baltimore, MD 21201 http://www.thewalters.org</p> | <p>Images can be freely downloaded from the Walters website for personal, educational, and commercial use under a Creative Commons license. Commercial and publication use of high-resolution images obtained from the museum require contact with a staff member, and only digital materials from the Walters may be used.</p> |
| <p>Yale Center for British Art 1080 Chapel Street New Haven, CT 06510 http://www.britishart.yale.edu</p> | <p>For works believed to be in the public domain, the Yale Center for British Art imposes essentially no terms and conditions for reproduction of its images. Many images of works in the public domain are freely available as downloads and can be used for any commercial or noncommercial purpose, with no application, authorization, fees, or further contact required. Users are encouraged, but not required, to cite the Yale Center for British Art as the source of the image, but they may not imply an endorsement from the Center.</p> |
| <p>Yale University Art Gallery 1111 Chapel Street New Haven, CT 06510 http://www.artgallery.yale.edu</p> | <p>Images from the Yale University Art Gallery are available for use by any one for any purpose. For now, users must contact the gallery for the images, as there is no automatic content delivery system in place yet. Users should cite http://artgallery.yale.edu as part of the credit line.</p> |