Case Studies Mapping the Flows of Content, Value and Rights across the Public Sector

By Dr Prodromos Tsiavos, March 2009
JISC, British Library, BBC, National Health Service, Becta, and Museums, Libraries and Archives Council working together to fully realise the potential of e-content for all users. For more information on the Strategic Content Alliance, please visit:

www.jisc.ac.uk/contentalliance

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Executive Summary

Background

This report is an analysis of seven case studies of publicly funded e-content initiatives, which demonstrate the flow of content, value and rights across the respective seven representatives of the Strategic Content Alliance (SCA) sponsors. It is addressed to senior decision makers across public-sector bodies and aims at providing a coherent account of best practices of managing publicly funded e-content.

The case studies included:

a) University of Portsmouth: Great Britain Historical Geographic Information Systems
b) University of Southampton: MyExperiment and Open Middleware Infrastructure Institute (OMII)
c) Birmingham Museums and Art Gallery: BMAGIC project
d) National Educational Network/Becta: Gallery and Repurpose Create and Share projects
e) National Library of Health: eLearning Object Repository project
f) British Library: Archival Sound Recordings project
g) British Broadcasting Corporation and Strategic Content Alliance: CenturyShare project

A finding from analysis of the case studies has revealed that all of them, but particularly the digitisation projects, face problems with respect to the clearance procedures. The current copyright regime is not friendly to this kind of activity that involves high volumes of works with low commercial but high cultural value, that do not have easily identifiable authors. The clearance problems have a direct impact upon the permissions associated with the content that is further disseminated. The institutions performing the digitisation often face severe budgetary limitations or have project management concerns that set limits to what may and what may not be cleared. As a result, some works remain inaccessible to the public. This is particularly true for works in which multiple layers and types of rights exist, and where the value objectives of such projects are mainly cultural and relate to the preservation of the material as well as in its being made available to the research community.

Using the case studies as reference points, the report also identifies and outlines three models of content and permissions flows. Each model is named after the key characteristic of the way in which the flows are structured:

- The ‘Star Shaped’ Model
- The ‘Snow-Flake’ Model
- The ‘Clean Hands’ Model

Such models are illustrative of the ways in which IPR management may enable or hinder the flow of e-content. They also constitute a basic typology of the ways in which different models of IPR management could facilitate different types of value production. This is a vital finding and is substantiated by the indication that each model may be associated with different organisational objectives. Therefore, such models could inform the way in which IPR policy and strategy is formed for organisations across the public sector to assist in planning as well as recognition of the pros and cons, costs and benefits of each approach.
This report also illustrates how identifying and building upon these different modes of copyright management can also contribute to the accomplishment of institutional goals, such as:

- Enabling more efficient and effective sharing of e-content between publicly funded projects and organisations
- Increasing the visibility of publicly funded e-content
- Allowing the audience to share and reuse e-content
- Minimising costs of content aggregation and copyright clearance
- Developing risk management procedures
- Improving the quality of e-content while allowing its open flow and sharing

Finally, the findings and recommendations contained in this report are beneficial to public-sector bodies by providing information on how to:

- Effectively and efficiently plan and implement publicly funded e-content projects
- Understand the needs of the end-user
- Create suitable copyright licensing frameworks to support project or organisational objectives
- Design realistic and sustainable Intellectual Property Rights (IPR) policies
- Reform aspects of the current IPR regulatory regime

Key findings

1. **Value does not equal money**
   All projects analysed are primarily interested in the production of non-monetary value, as expressed in their cultural, educational, scientific, preservation and public-service objectives.

2. **Clearing rights costs more than the rights themselves**
   In most digitisation projects, the costs of identifying and negotiating with rights owners exceed the costs of acquiring the actual licences.

3. **Publicly funded e-content is different from commercial content**
   The current UK copyright legislative framework is designed for high-commercial value, easily identifiable content. However, the majority of the e-content managed by public-sector organisations comprises of low-commercial high-cultural, high-volume content authored by individuals who are very difficult to trace.

4. **Education and training are necessary**
   The increasing inclusion of User Generated Content (UGC) in collections managed by public-sector organisations makes the education of the general public on issues of copyright as important as that of the organisation’s personnel. While cultural collection have always engaged with audiences, the advent of the internet has rendered the same collections accessible to a far wider, diverse and anonymous audience. In addition, Web 2.0 applications provided the end-user with the ability to actively interact with cultural content. This interaction often involves reproduction or transformation of the original content and consequently requires a basic understanding of the way in which the IPR regulatory framework operates. Hence, the constant education of these new audiences becomes crucial for the success of the cultural objectives of the collection holders and the mitigation of legal risk. Intellectual Property Rights and risk management toolkits, like the ones that SCA has already produced, are really important for organisations managing e-content collections.

5. **Free content costs**
   Open Access, sharing and reuse of e-content are activities that require dedicated curation and continuous update of the collection, as well as conscious community building. UGC acquires value only through active curation that makes its relevance apparent and fully contextualises the contributions of individual users. Because end-users constantly upload and update their content, the curation process needs to be
continuous and more intense compared to the curation of a more traditional collection that has longer change cycles. As a result, UGC e-content management may entail greater value creation but also have high maintenance costs.

6. More freedom means more responsibility
The closer we get to a model of unrestricted sharing and repurposing of content, the greater the need for attribution, quality assurance, source tracing and provenance.

7. There is no 'one size fits all' licence
Different types of content require different types of licences. There is a trend to differentiate between user-generated and professionally created content: the former is usually made freely available for reuse, whereas the latter is treated as premium content that may be used only privately and for non-commercial or educational purposes.

Key recommendations

A. Recommendations to funding bodies
1. Take into consideration the costs of rights clearance procedures, when drafting the funding contracts, as suggested within resource 2.2 Blueprint for Funding Bodies and Funding Recipients contained within the SCA IPR and Licensing Toolkit.
2. Provide specific funding for the production of IPR and risk management toolkits (or adaptation of existing toolkits, such as those that the SCA has developed) as well as targeted IPR clearance training.
3. Create specific funding programmes for increasing the IPR management capacity of public-sector organisations.

B. Recommendations to organisations managing e-content
1. Develop your own risk-mitigation and rights management procedures and tools. These might be based around tools created as part of the SCA IPR Toolkit.
2. Develop your own IPR training material or customise the existing ones.
3. Train your personnel on IPR-related issues.
4. Educate your user base on the 'Dos' and 'Don'ts' with respect to the content you make available.
5. Have an explicit and clear IPR policy and appropriately communicate it to your personnel and users. This might be based upon the template statements produced within the SCA IPR Toolkit [resource 2.1]
6. Make sure that the End-User Licence Agreements' terms and conditions are understood by your users. The SCA IPR Toolkit contains a 'Terminology Toolkit', which defines many of the terms that may be encountered with regards to rights and licences [resource 3.3].
7. Think of uses of your e-content beyond the boundaries of your own organisation or project.
8. Create value-added services for Web 2.0 and open content.

C. Recommendations to policy makers
1. Establish a uniform licensing framework in the publicly funded sector, to avoid licence pollution arising from a lack of licence compatibility.
2. Consider how best the Copyright legislation could be amended to accommodate orphan works' and memory institutions' [museums, libraries, archives] exceptions.
3. Develop a single voluntary rights clearance and registration service for e-content produced by public-sector organisations.
A growing body of electronic content (e-content) is made available online by organisations in different sectors, both to their respective communities and to the general public. Such e-content covers a variety of areas ranging from health, education and museums to archives, research and public libraries. This trend of making available online and increasing access to e-content faces two significant challenges:

- The proliferation and diversification of content makes its identification and contextualisation increasingly difficult for the user
- e-Content initiatives are often fragmented and uncoordinated, thus significantly limiting the possibilities of realising the potential of online content for the citizen

The Strategic Content Alliance (SCA) aims to contribute to the resolution of these problems by:

- Facilitating the coordination and collaboration of a series of key public-sector organisations
- Identifying and reducing barriers that inhibit access, sharing and reuse of publicly funded online material
- Maximising the value of e-content for the UK public-sector organisations, content providers, specific communities, the general public and the individual user

The SCA is a 3-year initiative funded as part of JISC’s capital programme, which has as its key objective to create an environment where the access, sharing and reuse of publically funded, online content is possible with the minimum frictions. SCA is sponsored by a series of key public-sector organisations that support its vision. These sponsor organisations include:

- JISC
- British Library
- BBC
- Becta
- Museums, Libraries and Archives Council (MLA)
- NHS National Library for Health (NeLH)

Strategic Content Alliance sponsors manage a wide range of content of considerable variety and wealth. While there is an expressed desire and intention to make such content as widely available as possible, the conditions, implications and even nature of such access provision still remain to a great extent under-researched and not well understood.

The Strategic Content Alliance Intellectual Property Rights (IPR) consultancy is dedicated to identifying the optimal legal, technical and organisational structures that can lower barriers and allow its sponsors to take advantage of opportunities for effectively using internet technologies in the cultural, public, scientific and educational sectors. The SCA sponsors are particularly interested in the ways in which their core values may be served by introducing advanced services allowing the searching, sharing and repurposing of their content. SCA focuses on the exploration of the core conditions for providing such services and producing an environment where content may seamlessly flow between organisations. The main characteristic of such an environment is that content and services from all SCA sponsors may be freely shared and combined to serve their objectives.
The creation of such an environment is contingent upon the way in which rights, works and value flow from, through and in between the SCA sponsor organisations. Content should ideally be searchable across the various SCA sponsor organisations and any user should be able to share, combine or repurpose content seamlessly from all possible sources.

The SCA sponsors have already in place a series of services that perform one or more of the functions of searching, sharing and repurposing of e-content. However, the level of understanding of the way in which Intellectual Property (IP) and other types of rights influence the flows of content and the provision of such services is still relatively low. Furthermore, the ways in which flows of rights and content may contribute to the objective set by each project often are unclear.

The SCA is also working collaboratively with the BBC on a pilot project 'BBC CenturyShare', whose purpose is to promote interoperability across the public sector and from organisations represented by SCA sponsors, by gathering data from these organisations and displaying it.

Much of the misapprehension of the ways in which content and IPR could be managed to achieve the goals of public, cultural, educational and scientific organisations is directly attributable to the absence of good analytical devices for deconstructing the flows of value, content and rights within and between such organisations.

The aim of this report is to provide such an analytical framework and to illustrate the ways in which it may be applied in seven different cases representative of projects undertaken by SCA sponsor organisations.

The objectives are to provide:

- An interoperable blueprint for the flow of rights, value and content across the public-sector organisations indicating points of tension and convergence
- Diagrammatic representations illustrating the current state of the flow of content, value and rights across the public sector, and the subsequent future opportunities that might be harnessed
- An indication of the critical channels where further development of IP tools by the SCA IPR Consultants is required
- An opportunity to capture the methodology used in this project, which can be harnessed by other organisations across the public sector wishing to map their flows of content, rights and value
- An indication of any variants on this blueprint influenced by future aspirations (such as changing platforms of delivery etc), to ensure that the SCA can provide and plan for strategic direction relating to e-content access and use in the future
2. Methodology

2.1 Basic concepts

The methodology employed in this report is based on the identification and analysis of three basic variables that appear in each of the case studies. These variables are as follows:

a) Value
b) Content
c) Rights

Value, content and rights are closely interrelated and it is useful to trace their relationship, as it sets the management framework for any e-content project. However, they need to be kept analytically separate and examined in juxtaposition to each other:

- **The flow of content produces value**: eg when a user downloads a digitised sound recording, the user gains value in terms of knowledge and the public-sector organisation increases the visibility of its collection and hence its cultural value.

- **The flow of content is regulated by the rights existing on it**: eg when a work is licensed under a Creative Commons Attribution licence, it may be freely exchanged between users provided they make reference to the author of the work.

- **The flows of content and rights do not follow the same path**: eg in the case of User Generated Content (UGC) that resides in a repository and is licensed under a Creative Commons licence, the content flows from the repository to the user, whereas the licence [rights] flows from the user that has authored the content to the one that uses it.

This methodology features:

a) A series of steps to be followed in order to trace flows of value, rights and content in any project. These constitute an analytical framework that may be replicated and employed in any project involving management of rights protected content for the production value.

b) The specific process and rationale of data selection, collection and analysis followed in this project.

2.2 Value

Gaining best value from the investment that has been made in the production of publically funded e-content is among the core objectives of all the SCA sponsor organisations. Such value is not necessarily monetary nor of a single type. Different stakeholders have different perceptions of value and the identification of types of value is the first step for achieving any project’s objectives. Each of the projects presented in this report seeks to achieve a set of objectives that are in turn served by values of variable type that flow into and out of the project. The identification of different types of value presupposes an understanding of the stakeholders and the key objectives of each project.

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1 See eg Creative Commons Attribution licence, 'Legal Code', Unported, Section 4b, http://creativecommons.org/licenses/by/3.0/legalcode
2.3 Content

There are various types of content that are circulated within the boundaries of a particular project or could potentially flow across different projects. One way of classifying electronic content is on the basis of its source. Three categorisations are made on that basis:

a) User-generated content
b) In-house produced content
c) Third-party content, ie content produced by organisations other than the one hosting it

Each of the aforementioned types of content has different trajectories of flow:

a) User-generated content tends to flow in a circular form: the content flows from the user to the organisation that manages the project and then again from the organisation to other users. If the material is repurposed then the circle starts again

b) In-house produced content flows from the organisation that manages the project to:
   - Intermediaries that will further disseminate the content to other intermediaries or the end-user
   - The end-user

c) Third-party content flows from the third parties to the organisation managing the project and then back to the user. In the case where only hyperlinks to the third-party content exist, the content flows directly from the third party to the end-user

Another categorisation of the content may be on the basis of its nature. We thus have:

- Audiovisual works, text (literary works), musical works and sound recordings
- Raw data and compilations of data
- Software
- Multi-layered works: these consist of works comprising multiple layers of other works (eg a multimedia work containing all the aforementioned categories of works, ie audiovisual works, data, text, software)

A final important distinction is between content and metadata, the former referring to the actual works and the latter to information about them. The differentiation is important both because rights may exist on both types and because there are projects that derive their primary value from the production and use of content and others from the production and use of the metadata.

2.4 Permissions and rights

e-Content comprises multiple layers and types of rights that regulate its flow. More specifically, multiple types of rights may exist on a specific work or multiple permissions may be required for its use. For example:

- Intellectual Property Rights [such as copyrights or trademarks]
- Permissions to use personal data or information with respect to minors
- Prior Informed Consent for use of sensitive personal data

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2 The categorisation is made from the perspective of the organisation that obtains, produces, hosts and makes content available. The difference between UGC and third-party content is that the former is in most cases produced by individuals that are non-professionals and hence may require different treatment (eg quality testing, filtering etc) compared to content produced by organisations or professionals.

3 Eg what appears as a single audio recording may comprise different layers of copyright existing on the literary work, the sound recording and the musical work.

4 Eg Copyrights, trademarks, personal data.
It is important to note that though IPRs are the main focus of this research, the management of certain other types of rights and permissions was also mentioned by some of the case studies. These included the management of confidentiality agreements, obtaining prior informed consent and following data protection legislation, which were considered to be equally if not more important risk-management considerations than the management of IPR.

Multiple layers of rights may exist on what appears to the end-user as a single work. An oral history recording may, for instance, consist of multiple underlying literary works, a performance and the actual sound recordings. Each of these works is awarded by the copyright legislation different sets of moral and economic rights.

These multiple types and layers of rights may well belong to different rights holders, causing significant frictions in the flows of works that are governed by those rights.

In the same way as content flows within and across projects, rights may also be created and transferred between individuals and organisations. Ownership over the physical or digital carrier of a work does not automatically entail ownership of the Intellectual Property Rights or a licence for the distribution or repurposing of e-content. For example, a museum may own a painting but still may not be able to digitise it. Even when the rights owner provides a digitisation licence, this may allow the making of copies only for preservation purposes and not for dissemination to the general public.

Rights holders are able to manage their rights by providing different types of licences or permissions allowing licensees to perform specific acts, such as redistributing (sharing) or repurposing content.

2.5 Flows

Identifying different types of value, content and permissions constitutes an important step toward the description of the information blueprint of an organisation, but it lacks the interactive element present in all content-related transactions. It is the flow of value, content and permissions and the relationships between these different streams that provide the complete picture of the operation of the relevant projects.

Focusing on the tracing of flows allows a better understanding of content-related transactions in terms of:

- The life cycle of flows and
- The association of flows with each other

Overall, the following basic conditions are usually encountered regarding flows:

- Flows of value, permissions and content flows are always associated. However, it is not clear whether such associations are beneficial for the objectives of the project or what barriers they face. Flows of permissions and works will inevitably produce some kind of value, but it is important to examine whether such value types are consistent with the project’s objectives and the cost of producing such value.
- Often a project seeks to produce a certain type of value but legal constraints may limit the flows of permissions and hence of works; this may consequently create frictions in the desired flow of value. Such frictions limit or cancel the flow of works. For example, sound recordings may only be used on site, not making use of the available technological options, or digitised recordings may never be made available. As a result, flows of cultural value with respect to specific types of content may be never materialised.

2.6 A life-cycle approach

Tracing the life-cycle of flows of value, content and permissions is instrumental for constructing the blueprint of each of the examined projects. It involves the following steps:

- Identification of project objectives and types of value
b) Identification of **layers and types of content and rights** and assessment of their **documentation process**

c) Tracing the cycle of **flows of works and permissions within a project**: the flows of works and rights do not always coincide or may follow multiple paths. For example, a library may acquire a licence from a researcher for all the rights on a sound recording, but might only license listening to the work to the end-user. A work may enter the museum in a physical form and be made available in a digital form of variable quality to different groups of users.

d) Tracing cycle of **flows of works and permissions across projects**: organisations of the broader public sector often need to be able to use each other’s content. For example, the BBC Century Share project makes the content of other SCA sponsor organisations available to a wider audience than each individual organisation would be able to disseminate it to.

e) **Matching flows of works, permissions and value**: different types of value are produced as a result of flows of rights and content.

### 2.7 Key factors to be taken into consideration

In each of the stages we further examine:

a) **Association of funding with access and use policies**: a significant portion of the e-content produced or made available by SCA sponsor organisations is publicly funded through grants that set specific conditions regarding its dissemination and use. Such conditions provide the framework for access and use policies that need to be followed by the funded project. For example, as a result of JISC funding, project developers will be required to make their project outputs freely available to Higher and Further Education (HE/FE) communities for educational and non-commercial uses. In such cases users often also acquire a licence to share and repurpose the content. Such licences grant far more extensive rights to users compared to rights granted by commercial organisations.

b) **Risk management strategies**: collections normally held by the SCA sponsor organisations present rather complex issues because of the multiple types of content and rights involved, and subsequently the potential for numerous transactions. An analysis of the respective organisations with regards to these transactions on the basis of flows of rights and content, allows for the design of more effective risk-management strategies. Effective risk-mitigation strategies facilitate better flows of content and contribute to an increase of flows of value. Most risk-mitigation strategies are based on the following mechanism:

- Identification of potential risks
- Impact assessment
- Probability of risks

c) **A balance of inputs/outputs of licences/permissions approach**: each project was assessed on the basis of the degree to which it ensured the compatibility of permissions that have been secured from third parties and those which the organisation was furthering allowing access and reuse (the rights’ input is equal or greater than the rights’ output).

### 2.8 Data collection and research design

The above approach was applied to seven projects representative of SCA sponsoring organisations. The studies covered the following organisations’ projects:

1. University of Portsmouth: Great Britain Historical Geographic Information Systems
2. University of Southampton: MyExperiment and Open Middleware Infrastructure Institute (OMII)
3. Birmingham Museums and Art Gallery: BMAGIC project
4. National Educational Network/Becta: Gallery and Repurpose Create and Share projects
6. British Library: Archival Sound Recordings project
7. British Broadcasting Corporation and Strategic Content Alliance: BBC CenturyShare project

For each of the case studies the following process was followed:

1. Presentation of the analytical scheme outlined in the previous sections was translated into a questionnaire
2. Circulation of the questionnaire to selected individuals with key positions in each of the projects in advance of the interview
3. Collation and review of any secondary documentation relating to each project
4. Interviews with one or more representatives from each project
5. Exploration of issues relating to the flow of content, rights and value, mapped within and across projects
6. Compilation of the results into this final report

The questionnaire in its generic forms can be found in the Appendix
3. Case Studies

3.1 Case One: Great Britain Historical Geographic Information System/Vision of Britain Through Time

3.1.1 Background
The Great Britain Historical GIS (or GBHGIS) is a spatially-enabled database that documents and visualises the changing human geography of Great Britain, mainly over the 200 years since the first census in 1801. The project is currently based at the University of Portsmouth, and is the provider of the Vision of Britain through Time (VoB) website. The project is involved in the digitisation of a wide range of geographic and demographic data that are included in the GBHGIS. The objective of the project is to make the data available to the widest possible range of users through a variety of channels and encourage their reuse in different contexts. For instance, the digitised and compiled data may be either downloaded from UKDA (the UK Data Archive) and EDINA’s (Edinburgh Data and Information Access) UKBORDERS (United Kingdom Boundary Outline and Reference Database for Education and Research Study) service or may be viewed on the Vision of Britain website.

3.1.2 Key content features
- Data intensive content (data and data compilations)
- Maps and graphics
- Material from the 19th and 20th centuries (material in the public domain)

3.1.3 Key value gains
- Through the VoB service the visibility and usability of data, especially for non-expert users, is increased
- By allowing the downloading of data in raw form (through UKDA and EDINA UKBORDERS), it is possible to link them with other related services (eg archives, other GIS services) and thus achieve their maximum utilisation
- Different channels of making the data available serve educational and research objectives
- As the access to the data becomes easier, added cultural and historical value is provided to non-professionals (eg amateur local historians, lay users)

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6 http://en.wikipedia.org/wiki/Great_Britain_Historical_GIS
7 The Joint Information Systems Committee (JISC) funded early development work on the GBHGIS web-based mapping tools, under JTAP project JTAP 1/320, 'Authoring methods for electronic atlases of change and the past', and contributed to boundary mapping and data entry.
8 www.data-archive.ac.uk
9 http://edina.ac.uk
10 http://edina.ac.uk/ukborders/description
The availability of data in different forms could potentially create a market for individuals interested in family and local history or location-sensitive services.

3.1.4 Rights ownership and obtained permissions

Most of the works used for the project are currently out of copyright, although some of the works will be protected by Crown Copyright.

There are a variety of copyright owners within the VoB project. These include:

- The copyright ownership of Census data from 1961 to 2001 belongs to National Statistics, for England and Wales, and to the General Register Office, for Scotland. These agencies also supplied the VoBs with detailed maps of modern census reporting areas.
- The copyright in some of the historical photographs used within the VoB belongs to English Heritage.
- The copyright in the maps created by the Land Utilisation Survey of Great Britain belongs to L. Dudley Stamp/Geographical Publications Ltd, while the scanned images of these maps, for England and Wales, to the Environment Agency/Defra, and for Scotland to the Great Britain Historical GIS.

The data used for the project have been collected for a period of about ten years. In this period, the data collection and compilation have been funded by a variety of projects and the individuals collecting and compiling the data have been employed by different academic institutions. As a result, there are potentially a number of rights holders for the data.

Issues of institutional ownership and transfer of rights have been resolved in the following ways:

- By ensuring that the Principal Investigator, i.e. the person heading the research project, obtains a licence from the academic researchers who hold copyright in the transcriptions.
- By assigning or licensing all copyright to an organisation that exists irrespective of any project transformations.

3.1.5 Terms of access and use

The content found on the VoB website is not licensed to the end-user under a specific licensing scheme. It only contains detailed copyright notices regarding each of its components. Consequently, the use of the content is governed by the rules of fair dealing as defined in the relevant legislation, i.e., content can be used for non-commercial research or private study.

The content made available through the UKDA and EDINA BORDERS services is licensed under the Census End User Licence (EUL). The key terms of this licence agreement are as follows:

- Data can only be used for personal, research, educational and non-commercial purposes.
- Registration is a requirement for using the content.
- The data cannot be further disseminated.
- Personal information must be kept confidential.
- Attribution and acknowledgement is made in accordance with the terms and conditions of the licence.

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11 Professor Humphrey Southall
12 According to the VoB website (www.visionofbritain.org.uk/footer/doc_text_for_title.jsp?topic=credits&seq=4) The resource as a whole is © Great Britain Historical GIS Project 2004; the GBH GIS being a network of collaborating academic researchers.
13 www.visionofbritain.org.uk/footer/doc_text_for_title.jsp?topic=credits&seq=4
14 Sections 29 and 30 of the 1988 Copyright Designs and Patents Act
15 www.data-archive.ac.uk/aandp/access/licence.asp
3.2 Case Two A: National Centre for eResearch (MyExperiment)

3.2.1 Background
The MyExperiment Virtual Research Environment (VRE), funded by JISC\(^{16}\) and the Engineering and Physical Sciences Research Council (EPSRC),\(^{17}\) enables scientific communities to share digital items associated with their research.\(^{18}\) In particular it uses Web 2.0 technologies in order to enable these communities to find, share and execute scientific workflows, which include text, diagrams and data, using a range of Creative Commons\(^{19}\) licences. If the user wants further access, and the ability to upload and share workflows, they will need to sign up. The software that powers Myexperiment.org is also downloadable so that a user can run their own instances of MyExperiment.\(^{20}\)

3.2.2 Key content features
- Multiple types of content: data, documents (literary works), diagrams (graphical works) and data compilations
- Differentiation between content and meta-content: the users of the MyExperiment VRE upload content but also produce meta-content in the form of tags (i.e., text and compilations of hyperlink) and comments (text)

3.2.3 Key value gains
- Collective gains for the research community from incremental innovation
- Individual gains for the researchers in terms of personal reputation, research visibility and citation
- Better understanding of the ways in which e-science communities interact
- Coordination gains from associating and linking researchers doing related work
- Collaboration gains from the creation of scientific groups and communities of practice

3.2.4 Rights ownership and obtained permissions
- The copyright in the MyExperiment website unless stated otherwise, belongs to the University of Manchester and the University of Southampton
- The actual content of the site (workflows and other files) are licensed under one of the three available Creative Commons licences.\(^{21}\) The Universities of Manchester and Southampton do not obtain any special permission from the owners of the content uploaded on the MyExperiment service other than the ones awarded to the general public through the Creative Commons licences

3.2.5 Terms of access and use
The end-user may both upload and download e-content. In the process of uploading e-content, the end-user also decides on the licence under which their work is to be made available.

MyExperiment offers a range of only three of the Creative Commons licences:

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16 www.jisc.org.uk/whatwedo/programmes/vre2.aspx
17 www.epsrc.ac.uk/default.htm
18 MyExperiment is funded as part of JISC’s Virtual Research Environment programme and SCA is a 3-year initiative funded as part of JISC’s capital programme
19 http://creativecommons.org
20 www.myexperiment.org
21 See section 3.2.5 for a more detailed presentation of the licensing schemes.
Case Studies Mapping the Flows of Content, Value and Rights across the Public Sector

- Creative Commons Attribution (CC–BY): this is a non-exclusive licence allowing the licensee to copy, distribute, transmit and adapt the original work under the condition that the work is attributed in the manner specified by the author of the work or the licensor and in accordance to the terms of the licence. The Creative Commons Attribution licence is the most liberal of all CC licences in the sense that it provides the maximum range of freedoms with respect to the work for the licensee.

- Creative Commons Attribution Share Alike (CC–BY–SA): this is a non-exclusive licence allowing the licensee to copy, distribute, transmit and adapt the original work under the condition that the work is attributed in the manner specified by the author of the work or the licensor and in accordance to the terms of the licence. The licensee is also allowed to build upon the original work, provided they share the resulting work under the same conditions. This is the default licence suggested by MyExperiment service as it is the licence most compatible with other open-content licences.

- Creative Commons Attribution–No Derivatives (CC–BY–ND): This non-exclusive licence allows the licensee to copy, distribute and transmit the work under the following conditions: (a) the work is attributed in the manner specified by the author of the work or the licensor and in accordance to the terms of the licence; (b) the licensee does not alter, transform or build upon the work. For the licensee, this is the most restrictive Creative Commons licence as it confers the most limited set of permissions to the licensee.

MyExperiment offers only the Creative Commons licences that do not contain the Non-Commercial Licence element. The inclusion of the Non-Commercial Licence element would not allow the end-user to use the licensed work for any commercial purposes. There are three reasons why this option is not offered to the end-user:

- Most of the free/open source licences do not contain such a section and hence this is outside the culture of the communities that are most likely to use this content.

- The less than clear definition of the Non-Commercial element is a cause of concern. Besides the problem of setting its scope, it is not compatible with any other open-content licences.

- The value for the copyright owner that licences the work does not come from direct commercial exploitation of the work and hence there is no point using a Non-Commercial element.

The uploading web page contains sections that allow the licensor to define in detail the form of attribution and even define the levels of access awarded to different users of the MyExperiment community irrespective of the licence that is to be chosen. The works that have been used for the file that is to be uploaded may also be defined, thus ensuring a minimum of provenance.

Various model of openness are adopted, depending upon the nature of the user and the type of the community. For example:

1. Open from the beginning model (Bio-mathematicians). The objective is to communicate the research results as fast as possible with proper attribution of the originator of the results, so that other scientists are able to work with them. Hence, the licence with the least possible limitations of use is chosen. In this case, more liberal CC licences (CC–BY) are offered.

2. Controlled model (Social statisticians). The accuracy and integrity of the data is the primary objective in this case. Hence, while there is need to communicate them, it is also necessary that the licensees do not make any changes or commercially use the data. In these cases, more restrictive licences are chosen (CC–BY–ND).

3. Open but hierarchical model (Chemists). The hierarchical structure of this community is expressed in the levels of control claimed over the data: the higher the position of the researcher in the hierarchy, the more likely to use a restrictive licence. The lower someone in the hierarchy, the more open the licences. In this case, CC–BY are permitted after a period of time.

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22 Eg extend, reuse, repurpose
23 Particularly the GNU Free Documentation Licence that is also used to licence the Wikipedia content. See [http://creativecommons.org/weblog/entry/10443](http://creativecommons.org/weblog/entry/10443)
24 This is legally possible as the licence comes into effect only once the end-user has actually accessed the content.
25 Supra ft. 14
4. Open after a period of time (Astronomers): The six months period required before making the data available using the most liberal licence equals the innovation cycle in the field. After that period, the producer of the data has probably moved to the next innovation cycle and her data may be made freely available to the rest of the community. In this case, the CC–BY is offered.

3.3 Case Two B: National Centre for eResearch (Open Middleware Infrastructure Institute (OMII))

3.3.1 Background
OMII-UK is an open-source organisation, jointly funded by various groups, including the Engineering and Physical Sciences Research Council and JISC. It provides the UK research community with software, support and sustainability. All of OMII-UK’s software is free, open source and fully supported. OMII-UK helps new users to get started with e-research, by providing the software that is needed, and if the software does not exist, it can fund developers to create it. OMII-UK also helps to guide the development of e-research by liaising with national and international organisations, e-research groups, standards’ groups and e-researchers themselves.

3.3.2 Key content features
- Mainly software and documentation material

3.3.3 Value gains
- Collective gains for the software community from incremental innovation
- Improving software development process and quality
- Facilitating interaction with commercial organisations
- Improving sustainability of Free/ Open Source Software (FOSS) development process

3.3.4 Rights ownership and obtained permissions
Joint ownership of software by the University of Southampton and other institutions such as University College London (UCL).

3.3.5 Terms of access and use
The managing organisation acquires all rights and hosts the software, which it then licenses back to the community through mainly BSD-type licences or is transferred to other organisations both academic and commercial. This is a solution that allows maximum flexibility for the University of Southampton with respect to the choice of licensing.

A wide range of Free/Open Source licences are used for different software made available through the OMII site. The main characteristics of such licences are:
- Attribution provisions
- No limitations as to the commercial use of the software

26 [www.omii.ac.uk/wiki/AboutUs](http://www.omii.ac.uk/wiki/AboutUs)
27 OMII-UK is also funded by JISC in the same way as SCA is JISC funded.
3.4 Case Three: Birmingham Museums and Art Gallery

3.4.1 Background
This case study examines copyright management practices across Birmingham Museums and Art Gallery (BMAG), their online database (BMAGIC) and the Pre-Raphaelite Resource Project.

3.4.2 Key content features
Digitisation in the BMAG context occurs either as part of a specific project, such as the Pre-Raphaelite Resource Project, or in the context of an ongoing digitisation process as a result of specific requests for exhibitions, publications or individual requests.

- The digitisation process involves the two- or three-dimensional scanning of objects contained in the BMAG collection, i.e., primarily digital photographs and in some cases videos.
- Multiple layers of rights are likely to exist in the digitised image if the underlying work is still in copyright, such as rights in the artistic work and its digital surrogate. Where the underlying work is not in copyright, as in the case of the Pre-Raphaelite works, then copyright is likely to exist just in the digitised image.

3.4.3 Rights ownership and obtained permissions
- The copyright in the main bulk of the content made available in an electronic form is owned by BMAG or out of copyright.
- When the copyright in the content that is to be digitised and displayed does not belong to BMAG, then permissions are sought. If the ownership of the copyright in the work is difficult to be established, as is the case with orphan works, it is most likely that the whole procedure, due to cost reasons, will not be initiated and the content will not be made available to the public.

3.4.4 Value gains
- Allowing access in all possible ways.
- Increasing the visibility of the collection.
- Ensuring quality, attribution, and provenance with respect to the collection items.

3.4.5 Terms of access and use
- The licensing schemes used for the dissemination of the material vary in accordance to the quality of the digitised artefact: high-resolution images are only made available to commercial users for a premium fee, whereas low-resolution images are made available free for non-commercial, private and educational uses to the general public.

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28 This project was selected as a case indicative of the flow of content, rights and value in the Museum field, the Museums, Libraries and Archives council (MLA) being one of the SCA sponsors.


30 [www.jisc.ac.uk/whatwedo/programmes/digitisation/raphaelite.aspx](http://www.jisc.ac.uk/whatwedo/programmes/digitisation/raphaelite.aspx)
End-users are allowed to copy but not to redistribute or repurpose the content, for personal, non-commercial, educational and research purposes only.

The terms of access and use are communicated to the end-user in a variety of ways, ranging from copyright notices and statements on the BMAGIC website when the user is to access content from the BMAGIC site, to personal communication with the user, supported by contractual terms, when premium quality images are requested.

3.5 Case Four: National Education Network

3.5.1 Background

The National Education Network (NEN) is the UK collaborative network for education providing schools with a secure network designed and maintained by experts within the educational community. The ‘NEN Gallery’ is a collection of high quality images, sound and video files that can be repurposed by teachers and students. All the materials can be used for educational, not-for-profit activities. Registered users can also upload images, sound and video files to the ‘NEN Gallery’ for use by other members of the educational community.31

Related to the ‘NEN Gallery’ project is the ‘Repurpose, Create and Share’ pilot programme, which ran from Spring 2007 to August 2008. The project is funded by Becta and managed on a project basis with schools selected through a formal proposal process. Support is provided for each of the school-based projects. The aim of ‘Repurpose, Create and Share’ is to build capacity, knowledge and skills around the embedding of digital resources into learning and teaching materials for the benefit of learning outcomes.

Both projects employ the NEN infrastructure and aim at the reuse and linking of various forms of content as well as the management of different layers of rights existing on the same work. The issues outlined below are shared by both projects. Where there are any differentiations, these are clearly demarcated.

3.5.2 Key content features

- Multiple types of content: images, video, audio, documents (literary works), diagrams (graphical works) and compilations of content

3.5.3 Value gains

- Increase access to educational material
- Foster incremental innovation and development of educational material
- Build communities of educational material producers
- Reduce redundancy costs by reusing content and thus not having to reinvent the wheel
- Improve the educational experience
- Provide flexibility in the ways in which resources can be used by both learners and teachers
- Serve education personalisation and active learning agendas
- Improve efficiency gains to be had from sharing learning materials with other schools
- Raise awareness of the range of freely available online digital resources
- Encourage greater collaboration in the creation of more interactive, engaging learning materials

31 www.nen.gov.uk/tandl/show/7/nen-gallery.html
Provide Becta and the NEN with information about what encourages and enables teachers to repurpose and share digital learning materials.

3.5.4 Rights ownership and obtained permissions
- NEN Gallery project: no licences or rights are obtained by the project. The content that is uploaded on the system is accompanied by a notice stating that all the copyrights remain with the original rights holder. The person uploading the content takes responsibility for licensing its use directly to the users of the service.
- Repurpose project: All the IPR in the content that is produced by School teachers is licensed to the school by including such a section in the teacher’s employment agreement. The copyright in the content produced by students is licensed by their parents through consent forms. Finally, copyright by third parties is also licensed through specific licence agreements.

3.5.5 Terms of access and use
- NEN Gallery project: each user retains the copyright over the material they upload, but agree that the end-user may use the material for personal, non-commercial or educational purposes. Further dissemination or alteration of the material is not allowed.
- Repurpose project: the content flows only between the members of a consortium that is established through a consortium agreement that also governs IPR licensing issues. Each consortium party provides the other parties with a licence allowing use of their content for the purposes of the project. Use of the content for commercial purposes or by third parties is left at the discretion of the individual consortium parties. All parties also license their IPR to the Lead Institution to the extent that is necessary for it to fulfil its obligations and to further license the content to Becta.

3.6 Case Five: National Library for Health eLearning Object Repository (NLH LOR)

3.6.1 Background
The National Library of Health (NLH) eLearning Object Repository (LOR) project is part of the National Health Service (NHS) Institute for Innovation and Improvement. Its main objective is to provide access to standards-based e-learning objects via a cross-searchable and browsable open web interface. All registered members of the NHS workforce will be able to search the repository and download objects that are on Open Access for use within local Learning Management Systems (LMS).

3.6.2 Key content features
- Multiple types of content: images, video, audio, documents (literary works), diagrams (graphical works) and compilations of content
- Multiple sources of content provided under different licensing schemes

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32 Becta (2008), Call for Bids from Becta and the NEN: Repurpose, Create and Share. Learning and Teaching Materials, 28 January 2008
34 The following notice is found in the uploading instructions page: ‘All the resources in this Gallery have been provided freely for Educational use only. These ARE NOT copyright free: the copyright in the resource is retained by the resource owner and any commercial use is explicitly excluded’. See [http://gallery.nen.gov.uk/help.php](http://gallery.nen.gov.uk/help.php)
35 The consortium agreement was drafted after the JISC Managed Learning Environments for Lifelong Learning programme as updated by JISC Collections for use by schools participating in the Repurpose, Create and Share project. Andrew Charlesworth and Anna Home – Centre for IT & Law, University of Bristol (2007) Consortium Agreements: A Short FAQ. See Appendix
36 NEN is one of the SCA sponsors
3.6.3 Value gains

- To improve the search and identification of content on the platform
- To reduce the duplication of effort in the production of learning objects/content by the participating organisations/communities
- To share educational material
- To facilitate the improvement of existing material
- To link together different types of material
- The core value of the NLH LOR project comes from reducing redundancy in the production of content and from ‘recycling’ resources from various communities. As a result, the value of the project increases in proportion to the ability to identify, share and repurpose the content stored in the repository.

3.6.4 Rights ownership and obtained permissions

- The copyright in the NLH website belongs to the NHS institute for Innovation and Improvement unless stated otherwise.
- The content uploaded by users of the NLH LOR is not licensed specifically to the NHS but, instead, it is directly licensed to the end-user through one of the three Creative Commons Licences made available through the website.
- The contributor of the material is responsible for IPR clearance.

3.6.5 Terms of use and access

- Three Creative Commons (CC) licences, all containing the Non-Commercial licence element, are the ones used for the dissemination of the content:
  - Creative Commons Attribution Non Commercial (CC–BY–NC): this is a non-exclusive licence allowing the licensee to copy, distribute, transmit and adapt the original work under the condition that the work is: (a) attributed in the manner specified by the author of the work or the licensor and in accordance to the terms of the licence; and (b) it is not used for any commercial purposes.
  - Creative Commons Attribution Share Alike Non Commercial (CC–BY–NC–SA): this is a non-exclusive licence allowing the licensee to copy, distribute, transmit and adapt the original work under the conditions: (a) that no commercial use of the work is made; and (b) that the work is attributed in the manner specified by the author of the work or the licensor and in accordance to the terms of the licence. The licensee is also allowed to build upon the original work, provided they share the resulting work under the same conditions.
  - Creative Commons Attribution Non Commercial No Derivatives (CC–BY–NC–ND): This non-exclusive licence allows the licensee to copy, distribute and transmit the work under the following conditions: (a) the work is attributed in the manner specified by the author of the work or the licensor and in accordance to the terms of the licence; (b) the work is not used for commercial purposes; and (c) the licensee does not alter, transform or build upon the work. This is the most restrictive for the licensee Creative Commons Licence as it confers the most limited set of permissions to the licensee.
- The non-commercial element was chosen as one expressing the non-commercial nature of the project.

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37 www.institute.nhs.uk/index.php
38 See for example statement in www.library.nhs.uk/mylibrary/default.aspx
39 See section 3.6.5
40 http://creativecommons.org/licenses/by-nc/2.0/uk/legalcode
41 http://creativecommons.org/licenses/by-nc-sa/2.0/uk/legalcode
42 Eg extend, reuse, repurpose
43 http://creativecommons.org/licenses/by-nc-nd/2.0/uk/legalcode
3.7 Case Six: British Library Archival Sound Recordings (BL ASR I and II)

3.7.1 Background
The British Library’s Archival Sound Recordings projects aim to digitise and make freely available 8,000 hours of digitised audio to the Higher and Further Education (HE/FE) communities of the UK. The projects are funded by JISC under its Digitisation programme. The core objectives of the project are to provide audio material for teaching, learning and research within various subject areas from history to ethnomusicology to science, across the broad range of HE/FE within a password-protected domain.

3.7.2 Key content features
- Multiple types of recordings: (a) unpublished recordings; (b) published commercial recordings; (c) oral history; (d) field recordings (sound scapes)
- Multiple types of works (published and unpublished) exist such as: (a) performances; (b) recorded literary works; (c) sound recordings; (d) musical works
- Multiple types of rights: (a) copyrights; (b) trademarks (on the brands of eg record companies); (c) personal data (eg in an oral history recording)

3.7.3 Value gains
- Educational and research value from making various forms of sound recordings freely available to the research community
- Cultural value from the preservation and dissemination of culturally important content that has not been previously published
- Increasing the visibility of the British Library archive and attracting a greater audience
- Allowing researchers to built upon primary material that is now made easily available

3.7.4 Rights ownership and obtained permissions
Rights are either owned by the British Library or effort is invested to obtain licences from the rights holders. The multiple layers of rights existing in each work often cause severe clearance problems and result in the emergence of a whole class of works without an identifiable owner (orphan works). More specifically:
- Clearance costs are high and unpredictable
- The clearance procedure affects the management of the whole project
- Clearance of rights is important not merely because of the legal liability risks but also in order to maintain the good reputation of the British Library

3.7.5 Terms of access and use
The content is made available to the public under two types of agreement, one for the general public and another specifically for HE/FE institutions.

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44 The Creative Commons licences do not set any limitations where the content is to be used (eg within or outside the NLH network)
45 The British Library is one of the SCA sponsor organisations
The material that is made available to the general public is licensed under a standard BL licence allowing end-users to copy the material for private, non-commercial and educational or research purposes. The licence does not permit adaptations or further dissemination of the work. The material that is made available to HE/FE institutions is licensed through the Archival Sound Recordings Sub-licence Agreement. Such a sub-licence allows under very specific conditions the copying and the limited distribution and adaptation of the content. More specifically:

- The circulation of the licensed content is allowed but only over a secure network, such as Athens, in the UK and between specific categories of users, as described in the sub-licence agreement. Authorised users are members of staff and students of the HE/FE institutions only
- The sub-licence allows only educational and non-commercial uses of the licensed content
- Authorised users, as defined in the sub-licence, are allowed to incorporate parts of the licensed content in their own work provided they properly attribute the right-owners and acknowledge the source
- Public performance of the licensed content is only possible to the extent that the relevant additional licence has been provided by the relevant collecting society

3.8 Case Seven: BBC CenturyShare Project

3.8.1 Background
The BBC CenturyShare project is jointly funded by JISC and the BBC Future Media and Technology (FMT), which is responsible for BBC’s digital presence. The CenturyShare project is based on ‘find, play and share’, which is one of the BBC’s Future Media and Technology strategies. The idea is to: (a) find BBC’s content whether it is on or off the site; (b) play – or enjoy – it; and (c) share it to send it someone else, so that someone else finds it and the circle starts again. This project builds on the concept of liaising with different partners to produce products on the basis of the content that all collaborating organisations have, which is consistent with the key objectives of the SCA in promoting interoperability between and across different cultural sectors. For instance, instead of user-generated content the intention is to use the assets of the partners of the SCA, focused on specific themes, and gather them into one place to give people a way into the collections without going to the owners of them directly. The project is a proof of concept to determine whether it is a viable concept for SCA partners aiming to analyse, aggregate and augment cultural content. Ultimately, content will be displayed on a timeline, so part of the activity will be taking the material and seeing if there is a date description and then adding more to the description or more keywords etc.

The CenturyShare project is of particular interest as it operates in two layers: (a) it provides content collected from a network of providers; and (b) it allows the collection of meta-content created by the users.

3.8.2 Key content features
- Multiple types of content: images, video, audio, documents (literary works), diagrams (graphical works) and compilations of content
- Multiple sources of content under different licensing schemes

3.8.3 Value gains
- Allows users to identify public sector e-content that is most relevant to them
- Produce valuable metadata

46 www.bl.uk/copyrightstatement.html
47 See Appendix
- Links dispersed material along a timeline
- Increases e-content visibility and creates multiple access points
- Provides a platform for sponsors from the across the public sector to provide access to their content in one place

### 3.8.4 Copyright status and other rights issues
- Ownership of content will remain with the originating organisation of the content
- The responsibility for the clearance of content is managed by the participant organisations
- BBC acquires licences for the user-generated content
- Data-protection issues are thoroughly covered by the registration service agreement

### 3.8.5 Terms of access and use
- BBC CenturyShare only provides a link to the e-content that is directly made available and licensed to the end-user by the organisation that owns the content
- The metadata produced by the end-users are licensed to the BBC
4. Analysis

4.1 A typology of the selected projects

The projects presented in the selected cases illustrate a wide range of characteristics with respect to the production, dissemination, sharing and repurposing of e-content, which are categorised as follows:

a) Digitisation projects: In the BL ASR and BMAGIC cases, the main focus of the project is digitising and making available the content. In these cases, the primary value is derived from the digitisation of the content that is then made available to the public. These projects are the ones that face the most pressing problems in relation to clearance of rights due to orphan works problems.48

b) Aggregation projects: These are projects interested in aggregating already digitised works and making them available either to specific communities (e.g., NLH LOR project) or to the general public (e.g., the BBC MemoryShare project). These projects do not take responsibility for the clearance of rights but place instead such responsibility with the content providers. Projects such as the GBGHIS and MyExperiment collect e-content of great value for specific communities, which they then make available to the general public.

c) Sourcing: Different projects use a variety of ways to source their content:
   i. In projects, such as the NEN/Becta Repurpose, BL ASR, BMAGIC and GBGHIS and OMII, the content comes mainly from selected sources and is centrally cleared
   ii. In cases like the MyExperiment, BBC CenturyShare, NEN Gallery and NLH LOR projects, the onus of clearing the content is left with the users (either individuals or organisations). The projects only post-moderate the uploaded content and have notice and take-down procedures in the cases where the permissions have not been properly obtained

d) Content vs context focus: While all projects base the production of value on flows of content, there are ones where the main source of value is the content itself and others where the value results from placing the content within a specific context:
   i. Projects such as BL ASR, BMAGIC and to an extent GBGHIS place emphasis mainly on the content itself
   ii. Projects such as BBC CenturyShare are more interested in the contextualisation of the content and the ways in which the end-users may relate to such content
   iii. Finally, in all repurposing projects such as MyExperiment, the NEN/Becta Gallery and Repurpose projects and NLH LOR, the value comes from the content as it has been repurposed, and in a sense re-contextualised, by the end-user

These different project priorities and sources of value reflect on the way in which rights are managed. More specifically:

48 I.e. issues arising from works for which the rights holders are unknown or cannot be traced.
[1] **Content-focused projects**: The main value results from using the content itself. Sharing of content is not the main focus of the projects and hence the licensing terms mainly allow use of the work for private, non-commercial educational or research purposes. Reproduction of the work may be permitted under the relevant terms of the licence. However, it is not actively encouraged. Most first stage digitisation projects belong to this category, such as the BL ASR I and the BMAG digitisation projects.

[2] **Context-focused projects**: The main source of value is the contextualisation of the content and the ability to capture and share user experience. More specifically:

- The value being primarily associational is expressed in the production of metadata, ie data about the original content. For example, the metadata produced in the case of the MyExperiment project are the key source of value.

- Search, identification, browsing patterns and collections of the original content are also forms of metadata that are shared and further enriched by the users themselves. For example, in the BBC CenturyShare project the objective is to share the ‘journeys’ of different users.

- The original content does not need to be centrally managed or owned by the organisation that facilitates the production of metadata. It is important that the original e-content is made available for use or viewing even from a central source and that links to this central source may be shared, but it is not necessary that the content itself may be transferred directly from user to user. For example, in the BBC CenturyShare project, no content is hosted by the BBC that only provides links to the original sources.

- It is not necessary that the original content is repurposed at all. It is enough if there are links to the locations where the original content is located. For example, in the BBC CenturyShare project most of the content is not repurposed, but rather linked. The users may still produce different compilations of links.

- It is important that the metadata and related user-generated content is shared, and ideally may be legally repurposed to reflect the incremental development of user experience. For example, in the BBC CenturyShare project the users are able to share lists of links and modify them in order to fit their needs.

- The production of content and metadata in such projects may be seen to take the form of a Russian nested doll, ie content behaving like a set of dolls of decreased size placed one inside the other.

- In terms of rights management, the original content can be provided to the end-user under terms and conditions that allow private and non-commercial use or viewing of the content, eg in the case of BMAG content.

- The metadata can be made available with additional repurposing permissions if the objective is to incrementally develop metadata. For example, in the case of MyExperiment all content and metadata are made available under Creative Commons licences.

[3] **Hybrid content/context focused projects (reuse and linking)**: In these projects, the value is derived from the content as it is updated, shared and repurposed by end-users. In that sense, the content is continuously re-contextualised by the audience.

- Meta-content may be also produced in such projects in conjunction to the repurposed e-content. Because of the volatile nature of the core content that is constantly repurposed, the production of meta-content is necessary in order to make content navigation easier. For example, in the case of MyExperiment, the use of meta-content is necessary to identify the most relevant experiment processes.

- The value is the result of creating associations, reducing duplication of effort and incrementally developing content. The benefits from reducing redundancy are apparent in all projects allowing repurposing of content. However, they cannot be obtained unless there are efficient mechanisms of content classification and searching. For example, in the case of NLH LOR and NEN/Becta projects the explicit objective is to allow repurposing in order to reduce duplication of effort and encourage incremental content development.
- Allowing meta-content production often facilitates the classification and search of the collection. The benefits from incremental development of content appear primarily in cases where the content itself may be broken down into smaller parts. Continuous improvement of the content is one of the key characteristics of these cases. For instance, in the case of the MyExperiment project, incremental development of experimental processes is possible and the benefits from the repurposing of content are obvious.

- Tracing the contributions and the contributors facilitates the improvement of the quality of the incrementally developed artefact. The more automated and comprehensive such processes of metadata creation are, the greater the value that may be extracted from the project. The MyExperiment project places particular emphasis on such automations and in that sense it is a more mature project than, eg, the NEN/Becta projects.

- All repurposing projects provide the users with rights to alter the original content, eg by using Creative Commons or other equivalent licensing schemes.

- Unless the licences under which the content is produced are compatible with each other, the content cannot be freely combined and the value production is seriously undermined. The same problem appears when content that is to be used across projects is licensed under mutually incompatible licences. For that reason, the wider the audience a project is addressed to, the more standardised the licences should be.

Organisational improvement: The OMII case represents an interesting project whose aim is not the production of content but rather at improving the quality of the production processes, ie it is a content support project. This is done by providing organisational support to a series of organisations involved in the production of open content and software. The OMII case is a very important one as it underlines the need to support organisationally projects that wish to embark to the production of open source software in their transition to self sustainability and commercialisation.

Overall, the projects explored in the seven case studies fit under the following four main categories (see table below):

a) Digitisation/dissemination projects: the objective of these projects is primarily to digitise the content and make it available to a controlled environment through a single dissemination point.

b) Aggregation/sharing of content projects: such projects are primarily interested in allowing already digitised content to be aggregated and shared by other users. Meta-content is crucial for these projects.

c) Reuse projects: in these projects, the key concern is to reduce costs by allowing incremental development and combination of already existing content.

d) Organisational improvement projects: in this case, the main objective is not related to the content at all but rather to the improvement of the organisational capacity of already existing content or software development processes. The qualitative improvement will allow the software or services to be offered in commercial settings or be sustainable outside the academic context.

### Project Categorisation

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<thead>
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<th>Project Categorisation</th>
<th>Specific Projects</th>
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<tr>
<td>Digitisation and dissemination</td>
<td>British Library Archival Sound Recordings I and II, Birmingham Museums and Art Gallery, Vision of Britain</td>
</tr>
<tr>
<td>Aggregation/sharing</td>
<td>BBC CenturyShare, Vision of Britain</td>
</tr>
<tr>
<td>Reuse</td>
<td>MyExperiment, Becta National Educational Network, National Library of Health eLearning Object Repository</td>
</tr>
<tr>
<td>Organisational improvement</td>
<td>Open Middleware Infrastructure Institute</td>
</tr>
</tbody>
</table>
5. Models of permission and content flows

5.1 General observations

Different IPR management approaches appearing in the projects examined in the seven case studies may be abstracted in three main models of works and permission flows.\(^49\)

Flows of permissions related to moral rights do not appear in the diagrams. This is because in all cases examined in this report moral rights remain with the creator of the content.

Three models of content and permissions flows are presented in this section. Each model is named after the key characteristic of the way in which the flows are structured. The three models are as follows:

- The ‘Star-Shaped’ model
- The ‘Snow-Flake’ model
- The ‘Clean Hands’ model

Such models are illustrative of the ways in which IPR management may enable or hinder the flow of e-content. They also constitute a basic typology of the ways in which different models of IPR management could facilitate different types of value production. Finally, each model may be associated with different organisational objectives. In that sense, such models could inform the way in which IPR policy and strategy are formed.

There is no one-to-one correspondence between models and projects. For example, in each project more than one model may appear and one flow model may be used in more than one project.

5.2 The ‘Star-Shaped’ model

The Star-Shaped model may be applied to collections and dissemination of permissions and content.

5.2.1 Collection of content and permissions

The star-shaped model involves a central entity that is responsible for the acquisition of the content and the required licences from the content providers and/or other rights holders, both of whom may be individuals, organisations or other projects.

The central entity that resides at the centre of the star is the one responsible both for the clearance of the rights and the curation of the material. The flows of permissions and works follow the same direction, although they can follow different paths, ie flowing from the supplier to the central entity. This is because it is likely that the rights owner and the content provider may be different, and the supply of each may be

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\(^49\) We use the term ‘permission flows’ to denote flows of copyright licences between different users and stakeholders in each of the models. A flow does not necessarily mean that the licensor is stripped of all their copyrights. In most cases, the copyright owner only awards a licence, ie a set of permissions, that flows within the boundaries of the project. The exact terms and types of licences are presented in greater detail in the appendices of this report. The concept of permission mainly refers to licences, but it is broader than mere licensing. For example, in the case of the NEN Repurpose project, permissions are sought from the parents for the use of the works of their children.
made at different times, particularly when rights are cleared for legacy material already owned by the central entity. This means that the acquisition of permissions may follow a push or pull model, i.e., either the central entity is in possession of the content and asks the relevant permissions from the rights holder or the rights holder deposits the material with the central entity agreeing to license the work under specific terms and conditions set by the central entity [see Diagram I].

Diagram I

5.2.2 Impact
Most projects involving digitisation of analogue material, particularly in the context of museums and archives, are organised using the star-shaped model.

The star-shaped model reduces risks from copyright infringement as the process of copyright clearance is managed at a single point. At the same time, the cost for the organisation managing the process increases, as such a model requires a specialised service or unit to perform the function. As a result, this is a model that could be beneficial for a large organisation that can achieve economies of scale, but may not be sustainable for small and medium size organisations. In the latter case, a star-shaped model may lead the organisation to a strategy of avoiding digitisation of works that require any copyright clearance in order to reduce costs.

For an organisation to be able to benefit from such a model, it is necessary to establish standardised clearance processes and risk management protocols, such as those developed as part of the SCA IPR Toolkit. Such strategy will allow the organisation to accrue knowledge from the accumulated clearance experience. It is necessary to properly document the clearance process so that there are records of the material cleared. Ideally, the metadata from the rights documentation should be in a standard form so that other institutions or projects can make use of them.
For small and medium size organisations it is necessary to port ready-made clearance and risk-management procedures and customise them to their personnel and technology requirements. Another solution would be to establish a clearance service for a specific sector (eg museums) at a national level and thus reduce the costs for the individual organisations.

5.2.3 Example
The star-shaped model may be applicable even in cases where the organisation collecting the content and the permissions keeps transforming. This is the case of the VoB, where the organisation performing the collection has changed several times due to transformations in the project (see diagram II).

Diagram II

In this case, the continuity of the VoB project has been preserved by ensuring that a single point was responsible for the collection of content and permissions that the star-shaped model provides. This point of collection functions de facto as a rights repository and constitutes a solution for ensuring the permissions and content have been collected and the project may continue to exist [see diagram III].
A summary of the features of the star-shaped model collection features may be found in Table II.

### Star-shaped model – Examples and Application

<table>
<thead>
<tr>
<th>Type of project</th>
<th>Digitisation projects</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Examples</strong></td>
<td>Birmingham Museums and Art Gallery (BMAG)</td>
</tr>
<tr>
<td></td>
<td>British Library (BL) Archival Sound Recordings (ASR) I and II projects</td>
</tr>
<tr>
<td></td>
<td>A Vision of Britain Through Time (VoB)</td>
</tr>
<tr>
<td><strong>Type of content providers</strong></td>
<td>Individuals</td>
</tr>
<tr>
<td></td>
<td>Organisations</td>
</tr>
<tr>
<td><strong>Entity responsible for the IPR clearance</strong></td>
<td>Central entity</td>
</tr>
<tr>
<td><strong>Entity responsible for content curation</strong></td>
<td>Central entity</td>
</tr>
<tr>
<td><strong>Content acquisition model</strong></td>
<td>Push</td>
</tr>
<tr>
<td></td>
<td>Pull</td>
</tr>
<tr>
<td><strong>Organisational features</strong></td>
<td>Middle to large size</td>
</tr>
<tr>
<td></td>
<td>Need to achieve economies of scale</td>
</tr>
<tr>
<td><strong>Advantages</strong></td>
<td>Accumulation of experience</td>
</tr>
<tr>
<td></td>
<td>Reduction of costs when economies of scale are achieved</td>
</tr>
<tr>
<td></td>
<td>Better control of the clearance process, Better control over the risk-management process</td>
</tr>
<tr>
<td><strong>Disadvantages</strong></td>
<td>Dedicated personnel are required</td>
</tr>
<tr>
<td></td>
<td>High costs of running the service</td>
</tr>
<tr>
<td></td>
<td>Liability of the organisation responsible for the clearance</td>
</tr>
</tbody>
</table>
5. Models of permission and content flows

5.2.4 Dissemination
The dissemination of content may also fit under the star-shaped model. In such cases, both the distribution and licensing of content is managed by a single central organisation. In this case, there are three broad scenarios of content and licence distribution under the star-shaped model:

- Public internet distribution
- Walled garden distribution, i.e. restricted distribution
- Hybrid public/walled garden distribution

A summary of the different types of star-shaped dissemination models may be found in Table III.

<table>
<thead>
<tr>
<th>Star-shaped model</th>
<th>Dissemination of Content and Permissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Types of dissemination models per project</td>
<td>Public internet distribution</td>
</tr>
<tr>
<td></td>
<td>Walled garden distribution</td>
</tr>
<tr>
<td></td>
<td>Hybrid public/walled garden distribution</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Features per Dissemination Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of End-User Licence Agreement (EULA)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Typical permissions awarded to the end-user by the EULA</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
### Star-shaped model

<table>
<thead>
<tr>
<th>Typical obligations imposed upon the end-user by the EULA</th>
<th>Attribution</th>
<th>Copyright notices have to remain</th>
<th>No endorsement</th>
<th>No commercial use</th>
<th>No derivative works</th>
<th>No further dissemination of the work</th>
<th>Attribution</th>
<th>Copyright notices have to remain</th>
<th>No endorsement</th>
<th>No commercial use</th>
<th>No derivative works</th>
<th>No further dissemination of the work</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Star-shaped model</strong></td>
<td>Attribution</td>
<td>Copyright notices have to remain</td>
<td>No endorsement</td>
<td>No commercial use</td>
<td>No derivative works</td>
<td>No further dissemination of the work</td>
<td>Attribution</td>
<td>Copyright notices have to remain</td>
<td>No endorsement</td>
<td>No commercial use</td>
<td>No derivative works</td>
<td>No further dissemination of the work</td>
</tr>
<tr>
<td><strong>Typical obligations imposed upon the end-user by the EULA</strong></td>
<td>Attribution</td>
<td>Copyright notices have to remain</td>
<td>No endorsement</td>
<td>No commercial use</td>
<td>No derivative works</td>
<td>No further dissemination of the work</td>
<td>Attribution</td>
<td>Copyright notices have to remain</td>
<td>No endorsement</td>
<td>No commercial use</td>
<td>No derivative works</td>
<td>No further dissemination of the work</td>
</tr>
<tr>
<td><strong>Quality of material</strong></td>
<td>Low to mid quality</td>
<td>Mid to high</td>
<td>Low to mid</td>
<td>Mid to High</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Dissemination format for audio/video</strong></td>
<td>Streaming</td>
<td>Downloading</td>
<td>Streaming</td>
<td>Downloading</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Existence of some form of technical protection measures (TPM)</strong></td>
<td>No</td>
<td>Access only over a secure network</td>
<td>No</td>
<td>Access only provided over authorised network (e.g. Athens)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Is sharing allowed?</strong></td>
<td>No</td>
<td>Yes (within the walled garden)</td>
<td>No</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Is repurposing allowed?</strong></td>
<td>No</td>
<td>Yes (within the consortium)</td>
<td>No</td>
<td>Users are allowed to incorporate parts of the licensed work in their work provided they attribute properly</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 5.2.4.1 Dissemination over the public internet

When content is made available over the internet the following are most common characteristics of its dissemination (see diagram IV):

- There is always some form of licence specifying the permissible uses
- The End-User Licence Agreements (EULAs) are custom-made licences that reflect the policy and strategy of the specific organisation
- The EULAs allow only private and non-commercial or educational uses. No super-distribution, i.e., further dissemination by the user or publishing on their private website is permitted. Repurposing is usually prohibited as well
- The quality of the digital surrogates is normally of low quality. For instance, low resolution images or videos, low bit-rate sound recordings
In cases of audio or video, the content is only made available for streaming, not downloading.

No Technical Protection Measures (TPM) are used for still images or audio. However, some of the audiovisual content is protected with TPM and downloading may be allowed only for a limited amount of time (e.g., BBC iPlayer).

As a result, the content, both technically and legally, cannot be repurposed either by end-users or other public-sector organisations.

Diagram IV

5.2.4.2 Walled garden distribution
When content is made available over a controlled/secure network, the following are the most common characteristics of its dissemination (see Diagram V):

- The dissemination of content over a secured environment is expressed in the related EULAs and the technologies of distribution. The EULAs are custom-made licences that reflect the funding conditions of the specific digitisation programme (e.g., the NEN Repurpose project is made available only to the students of the schools participating in the programme) or the charter of the digitising organisation (e.g., BBC content is normally made available only within the UK). The technology normally allows access to the content either through a specific gateway or on the basis of the IP address. For example, in the case of the BL ASR I project, the digital audio recordings are made available only to UK HE/FE students and members of staff through the Shibboleth service; the BBC audiovisual content is only made available to users having a UK Internet Protocol address.

- The rights awarded to the users are normally greater than those found over the public internet. They normally include rights of reuse within the specific network. Such is the case of the NEN Repurpose project, where the content is made available for reuse only within the secure network. Such an approach may be problematic as it creates pools of content that because of the licensing terms may not be legally interoperable with content that is reusable under a standard public licence, such as the Creative Commons licences.
No technical protection measures are used on the actual content but access is allowed only to authorised users over secure networks.

Diagram V

5.2.4.3 Hybrid public internet/walled garden distribution
This is the case when content is made available by the same central point both to the public internet and over a secure network (see Diagram VI). The case applicable in this model is the BL ASR II project. In such a scenario:

- Different sets of content are distributed over public and secure networks, with premium or full content being provided over the latter
- Different sets of rights awarded to the two types of users (public/within the walled garden). In the case that reuse rights are granted to users within the walled garden, the ‘licence dilemma’ appears
- If a standard public licence allowing reuse is used (e.g., the Creative Commons licences), then the content may be legally and freely disseminated and reused on the public internet
- If a custom-made licence allowing reusability is employed, then it will be very complex legally (and subsequently very expensive) to combine the walled garden content with free internet content. The creation of content islands may be desirable in the short term but may cause substantial clearance problems or may even make the recombination of the content unusable in the long run

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50 The dissemination of the BL ASR content over the public internet follows the star-shaped model, whereas the dissemination over the secure network follows the snowflake model.

51 This situation appeared in the case of the NHS National Library of Health LOR project. NLH LOR finally adopted the three CC licences, them being more standardised and hence avoiding the creation of islands of content problem.

52 A possible solution to the licence dilemma could be to ensure that all contributors license their content to a central organisation that then makes the reused content available within the walled garden under the condition than any content made will be always licensed to this central organisation. Such a condition could be part of the registration agreement. The main benefit of this solution is that the content may be moved over the public internet under any standard licensing scheme whenever the central organisation takes such a decision. This strategy has not been adopted by any of the projects examined in this report but resembles the structure of the NEN Repurpose project. See note
5.3 The ‘Snow-Flake’ model

In the snow-flake model (diagram VII) the clearance of rights (obtaining permissions) and acquisition of content is organised in clusters: rights are cleared and content is aggregated first locally, then in clusters of local units and finally in a central hub. This type of collection appears in the NEN Repurpose project. It is a model that allows the reduction of clearance costs for the central organisation: the costs of clearance are primarily covered by the local organisations or at the cluster level. The central organisation oversees and manages the whole process but is not involved in any clearance itself.

Standardised risk management and clearance procedures are quintessential for the success of this model. The central organisation needs to have in place such procedures in order to ensure that the risk of copyright infringements is mitigated.

The snow-flake model is particularly popular in projects that:
- Are geographically dispersed
- Have multiple units
- Deal with more than one type of rights (e.g., copyright, personal data, protection of minors, etc.) that can be acquired and managed locally

5.3.1 Example

The snow-flake model is primarily used for content aggregation and rights clearance and does not have to be also followed in the distribution and licensing of the content. The latter may follow a hybrid snow-flake and clean hands model, as is the case of the NEN Repurpose project. In the NEN Repurpose project, once clearance is completed in the local level:

53 Supra note 53.
The content is licensed to the central entity
- There is cross-licensing of the content between the consortium parties
- Each consortium party decides by itself how to further license the content

Diagram VII

<table>
<thead>
<tr>
<th>Snow-flake model</th>
<th>Examples and Features</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of project</strong></td>
<td>Consortium</td>
</tr>
<tr>
<td><strong>Project example</strong></td>
<td>NEN Repurpose project</td>
</tr>
<tr>
<td><strong>Type of content providers</strong></td>
<td>Individuals, Organisations</td>
</tr>
<tr>
<td><strong>Entity responsible for the IPR clearance</strong></td>
<td>Central entity and cluster organisations</td>
</tr>
<tr>
<td><strong>Entity responsible for content curation</strong></td>
<td>Central entity and cluster organisations</td>
</tr>
<tr>
<td><strong>Content acquisition model</strong></td>
<td>Push, Pull</td>
</tr>
<tr>
<td><strong>Organisational features</strong></td>
<td>Geographically dispersed, Has multiple units, Deals with more than one type of rights (e.g., copyright, personal data, protection of minors etc) that can be acquired and managed locally</td>
</tr>
</tbody>
</table>
5.4 The ‘Clean-Hands’ model

This is the model where the flows of rights and content follow entirely different paths. The content is normally collected and may be downloaded from a single point, whereas the licences flow directly between the users. The central organisation does not deal with copyright at all and that is why we use the metaphor of clean hands to describe the model (see diagram VIII).

Diagram VIII

The key characteristics of the clean hands model are as follows:
The clean hands model is not necessarily concerned with the aggregation of content or licences but rather with facilitating the respective flows (of content and licences between the users). The aggregation of content could take place in a centralised fashion and hosted by the central organisation (e.g., in the case of the OMII, MyExperiment, NEN Gallery, and NLH LOR projects), or to be directly managed by the participants of the system (e.g., CenturyShare project). The central organisation is not at all concerned with acquiring any licences over the content. In this model, the central organisation only ensures that the end-users have the necessary permissions supplied by the rights owners.

The clearance of the content is pushed at the ends of the network or on the contributors of the content. These may be either individuals, legal persons, or other projects. They are responsible not only for the copyright clearance but also for obtaining any other required permission, such as Prior Informed Consent or personal data clearances.

The main risk management approach followed by the central organisation relies on their lack of direct involvement in obtaining any permissions for themselves and clearly stating in the service registration agreement that the end-user is responsible for the clearance of rights. Additional necessary measures include the provision of proper disclaimer clauses and clear notice and take-down procedures.

5.4.1 Impact

This particular model can result in the possibility of the 'licence pollution' phenomenon. Specifically, in a reuse scenario, the copyright licences used have to be compatible with each other, otherwise they will lead to derivative works infringing the copyright of the content on which they are based. For example, all Creative Commons licences are not compatible with each other and if they are used in a service (e.g., in the MyExperiment or NLH LOR projects), it is necessary that some minimum care is taken to inform the users accordingly. This may be done by ensuring that in the case of uploading a derivative work, the user is obliged to name the content sources and their respective licence. The system then should automatically inform the user about the compatibility of the source licences.

In any reuse scenario, the rights information should refer to the work, not the creator (see diagram IX). Hence, it is necessary to have metadata attached to each work making explicit:
- Which works it is based on
- In which works it has been used

Overall, it is advisable to use standard licences and metadata so that linking with other organisations and projects is possible.

The more rights are offered to the licensee, the more the need for:
- Attribution
- Provenance
- Quality assurance
- Adherence to data protection rules, processes for protecting minors, and Prior Informed Consent rules.

5.4.2 Examples

The clean-hands model is adopted in the following cases:

- The central organisation is interested only in aggregating content from various other organisations or projects that provide content under a variety of licences. In this case, the central organisation may not even host the actual content: it may only provide the links to the content and perform the functions of aggregation and curation. The value, in this case, derives from increasing visibility and associating content with other related content. Therefore, any metadata created are normally owned by the central organisation. This is the case of the CenturyShare project.

- The central organisation is interested in the reuse of content provided either by end-users, other projects, or organisations. The value comes from the reuse and incremental improvement of content. These are the cases of the NEN Gallery and OMII projects.
The central organisation hosts only user-generated content that freely flows on the internet. Value derives again from building on existing material and collective development. By pushing the rights clearance at the ends of the network the organisation decreases clearance costs and mitigates risks. It is not responsible for managing the complex ownership questions that are likely to appear. In this case standardised licences, such as the Creative Commons licences, are used. The most relevant related projects are the NLH LOR and MyExperiment projects.

5.4.3 Value
The main sources of value in the clean hands model are:
- The cultivation of communities
- The production of metadata
- The linking of relevant content
- Reduction of redundancies
- Incremental innovation

Diagram IX

Follow the work
### Clean hands model

#### Examples and Application

<table>
<thead>
<tr>
<th>Type of project</th>
<th>Digitisation projects</th>
</tr>
</thead>
</table>
| **Project examples** | BBC CenturyShare  
My Experiment  
OMII  
NLH LOR  
NEN Gallery project |
| **Type of content providers** | Individuals  
Organisations |
| **Entity responsible for the IPR clearance** | Individual participants |
| **Entity responsible for content curation** | Central entity |
| **Content acquisition model** | Push |
| **Organisational features** | Decentralised structures  
Focus on reuse and sharing  
Need for curation by the central organisation  
Need for standardised notice and take-down and risk-assessment procedures  
Need for standardised and interoperable licences |
| **Advantages** | Low or zero cost of obtaining permissions for the content managed by the project  
Cultivation of communities of practice  
Production of metadata  
Linking of relevant content  
Reduction of redundancy  
Incremental innovation  
Limited IPR-related risk |
| **Disadvantages** | Dedicated personnel required for the curation of the material  
Risk of incompatible licences and islands of content if licence interoperability is not ensured  
Secondary liability of the organisation responsible for managing the project |
| **Suggestions** | Document and standardise processes and licences  
Put a risk assessment and management scheme in place  
Standardise metadata to facilitate communication between different institutions |
### Clean Hands model

#### Collection and Dissemination of Content and Permissions

<table>
<thead>
<tr>
<th>Types of content aggregation models per clean-hands project</th>
<th>Aggregation and hosting of content by the central organisation (Star-Shaped Model)</th>
<th>NLH LOR</th>
<th>NEN Gallery</th>
<th>OMII</th>
<th>MyExperiment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggregation only of links.</td>
<td>The content directly flows between the participants (pure clean hands model)</td>
<td>All user-generated content is licensed to the central organisation</td>
<td>BBC CenturyShare</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensing Features per Project</th>
<th>NEN Gallery</th>
<th>OMII</th>
<th>My Experiment</th>
<th>NLH LOR</th>
<th>BBC CenturyShare</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of End-User Licence Agreement (EULA)</strong></td>
<td>Custom made</td>
<td>Standardised Free/Open Source Licences</td>
<td>Creative Commons v.3.0 Generic Licences</td>
<td>Creative Commons v.2.0 England and Wales licences</td>
<td>Agnostic</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>CC–Attribution (CC–BY)</td>
<td>CC–Attribution Non-Commercial (CC–BY–NC)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Typical permissions awarded to the end-user by the EULA</strong></th>
<th>Use</th>
<th>Distribution</th>
<th>Access to source code</th>
<th>Repurposing</th>
<th>Distribution of derivative works</th>
<th>Commercial Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Educational and non-commercial purposes</td>
<td>Use (all licences)</td>
<td>Distribute (all licences)</td>
<td>Publicly perform (all licences)</td>
<td>Repurpose (in CC–BY–NC and CC–BY–SA–NC)</td>
<td>Distribution of derivative works (in CC–BY–NC and CC–BY–SA–NC)</td>
<td>Commercial use (all)</td>
</tr>
<tr>
<td>Distribution of derivative works</td>
<td>Use (all licences)</td>
<td>Distribute (all licences)</td>
<td>Publicly perform (all licences)</td>
<td>Repurpose (in CC–BY–NC and CC–BY–SA–NC)</td>
<td>Distribution of derivative works (in CC–BY–NC and CC–BY–SA–NC)</td>
<td>Commercial use (all)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Depends on the content provider</strong></th>
<th>Minimum:</th>
<th>See OMII case</th>
<th>Maximum:</th>
<th>See MyExperiment case</th>
</tr>
</thead>
</table>

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5. Models of permission and content flows
## Clean Hands model

<table>
<thead>
<tr>
<th>Typical obligations imposed on the end-user by the EULA</th>
<th>Ensuring access to the source code is not hindered</th>
<th>Retain copyright notices</th>
<th>ShareAlike, ie further disseminate the code under the same terms and conditions (only in very few cases when the General Public Licence is used)</th>
<th>No sublicensing</th>
<th>Moral rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attribution</td>
<td>Attribution (all)</td>
<td>Attribution (all)</td>
<td>Attribution (all)</td>
<td>Attribution (all)</td>
<td>Attribution (all)</td>
</tr>
<tr>
<td>Copyright notices have to remain</td>
<td>Copyright notices have to remain (all)</td>
<td>Copyright notices have to remain (all)</td>
<td>No endorsement (all)</td>
<td>No endorsement (all)</td>
<td>No endorsement (all)</td>
</tr>
<tr>
<td>No commercial use</td>
<td>No commercial use</td>
<td>No commercial use</td>
<td>No derivative works (CC–BY–ND)</td>
<td>No derivative works (CC–BY–ND)</td>
<td>No derivative works (CC–BY–ND)</td>
</tr>
<tr>
<td>No derivative works</td>
<td>No derivative works (CC–BY–SA)</td>
<td>No derivative works (CC–BY–SA)</td>
<td>ShareAlike, ie further disseminate the code under the same terms and conditions (CC–BY–SA–NC)</td>
<td>ShareAlike, ie further disseminate the code under the same terms and conditions (CC–BY–SA–NC)</td>
<td>ShareAlike, ie further disseminate the code under the same terms and conditions (CC–BY–SA–NC)</td>
</tr>
<tr>
<td>No further dissemination of the work</td>
<td>No further dissemination of the work</td>
<td>No further dissemination of the work</td>
<td>No derivative works (CC–BY–ND–NC)</td>
<td>No derivative works (CC–BY–ND–NC)</td>
<td>No derivative works (CC–BY–ND–NC)</td>
</tr>
<tr>
<td>No repurposing allowed</td>
<td>No repurposing allowed</td>
<td>No repurposing allowed</td>
<td>No derivative works (CC–BY–SA–NC)</td>
<td>No derivative works (CC–BY–SA–NC)</td>
<td>No derivative works (CC–BY–SA–NC)</td>
</tr>
<tr>
<td>No sublicensing</td>
<td>No sublicensing</td>
<td>No sublicensing</td>
<td>ShareAlike, ie further disseminate the code under the same terms and conditions (CC–BY–SA–NC)</td>
<td>ShareAlike, ie further disseminate the code under the same terms and conditions (CC–BY–SA–NC)</td>
<td>ShareAlike, ie further disseminate the code under the same terms and conditions (CC–BY–SA–NC)</td>
</tr>
<tr>
<td>Moral rights</td>
<td>Moral rights</td>
<td>Moral rights</td>
<td>Moral rights (all)</td>
<td>Moral rights (all)</td>
<td>Moral rights (all)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Quality of material</th>
<th>Mid-High</th>
<th>High</th>
<th>High</th>
<th>High</th>
<th>Mid to High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dissemination format for audio/video</td>
<td>Downloading</td>
<td>Downloading</td>
<td>Downloading</td>
<td>Downloading</td>
<td>Depends on the content provider</td>
</tr>
<tr>
<td>Existence of some form of Technical Protection Measures (TPM)</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Depends on the content provider</td>
</tr>
<tr>
<td>Is sharing allowed?</td>
<td>Yes (only on the platform)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Depends on the content provider</td>
</tr>
</tbody>
</table>
5. Models of permission and content flows

### Clean Hands model

<table>
<thead>
<tr>
<th>Is repurposing allowed?</th>
<th>No</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes (CC–BY and CC–BY–SA)</td>
<td>No (CC–BY–ND)</td>
<td></td>
</tr>
<tr>
<td>Depends on the content provider</td>
<td>The platform does not provide any features for sharing content</td>
<td></td>
</tr>
</tbody>
</table>

#### 5.5 Conclusion

Irrespective of which model IPR model is to be followed, a suitable copyright management framework needs to be implemented to ensure that basic procedures and decision-making rules can be widely adopted. This will ensure that staff and users understand the nature of the permissions that are being granted regarding access and use of content.
6. Common key themes associated with the case studies

A number of key themes have emerged from the analysis of the seven case studies, which can be used to substantiate some broad conclusions arising from this study.

6.1 Key value types identified

There is a variety of different value types identified in the case studies. The following list covers the main value types that are likely to be encountered.

6.1.1 Types of non-monetary value

- Cultural dissemination and preservation
- Educational
- Reputational
- Quality
- Audience creation
- Relevance of material
- Collective memory
- Sustainability

6.1.2 Types of monetary value

This is a value associated with revenue, sustainability of the project and the ability of being able to secure future funding.

- All projects considered monetary value NOT as the key value to be achieved but rather as something that may be either useful in the future or necessary for sustainability purposes
- The production of monetary value appeared as a consideration in the form of ensuring that existing funding will continue and new public funding will be provided. As a result of the source of the monetary value being of public nature, the key objectives of all such projects has been to achieve public-serving purposes. Such purposes almost invariably require increasing access and allowing reuse of content.
- Finally, it means that monetary value and content or rights are not directly exchangeable. For instance, the MyExperiment and NEN Repurpose projects are funded by public money to make content freely available for sharing and repurposing. The users of such services do not directly pay for their use.
There are various perceptions of value types in different levels of hierarchy within the same organisation and are greatly contingent upon risk perceptions. For instance, middle management in a museum may consider provision of access in all possible ways the key objective, whereas the members of the governing trust may consider the reputation of the institution and the collection of material as the primary objective. Also the perception of value and risk greatly differ between the copyright specialists within the organisations and the rest of the staff interviewed in this study.\(^\text{54}\)

A summary of the value types identified in each case study can be found below.

<table>
<thead>
<tr>
<th>Types of Value Identified per Case Study</th>
<th>BL</th>
<th>ASR</th>
<th>BMAGIC</th>
<th>VoB</th>
<th>BBC CenturyShare</th>
<th>MyExperiment</th>
<th>Becta NEN Repurpose</th>
<th>OMII</th>
<th>NLH LOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-monetary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Educational</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Reputational</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Quality improvement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Audience creation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increasing relevance of material</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Collective memory</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Building on existing knowledge</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Culture dissemination and preservation</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monetary</td>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue creation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sustainability</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Securing future funding</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6.1.3 Conclusions
Although the value type identified from the case studies is not necessary monetary, there are inevitably costs in the production and dissemination of content that have to be somehow covered. These costs involve rights clearance costs (tracing rights holders, paying copyright fees for the acquisition of licences) and personnel costs (eg for the curation of the aggregated content or the monitoring of the service).

Even when the value produced is recognised as monetary, other forms of value, such as cultural and educational value, are equally important for the success of the project.

6.2 Funding and IPR management
Funding plays a key role in the formation of the project’s IPR policy. It may define the broader framework of managing IPR or require the licensing of the content to the funding organisation (eg the NEN Repurpose project requires licensing of the content to Becta). Overall:

\(^{54}\) This is not an uncommon finding, and was an issue identified by the SCA IPR Consultants further to a provisional survey of the attitudes and approaches towards IPR and licensing by sponsors of the SCA
Funding contracts could be used as a way to ensure licensing compatibility among different organisations and facilitate the cultivation of a common information environment.

Clauses requiring licensing to the organisation providing the funding need to be thoroughly re-assessed in order to ensure that they cover only the material for which clearance has been secured.

The problem of IPR clearance has to be addressed in the level of funding contracts in terms of:

- Ensuring that clearance of rights is also funded, sometimes even as an auxiliary project
- Acknowledging the time management implication that any clearance procedure entails
- Funding training programmes for the staff in the areas of general IPR understanding, copyright, Open Licensing, Data Protection, confidentiality and prior informed consent agreements

### 6.2.1 Conclusion

Funding initiatives should take into consideration the costs and time management implications of clearance procedures and the need for training of staff on IPR management and other rights (eg personal data) issues. Such issues are outlined within the SCA IPR Toolkit.

### 6.3 Risk management

Risk management strategies do not exist in all projects. The existence of a comprehensive risk strategy is mainly contingent upon two factors:

- The experience of risk management in the organisation where the project is positioned: the more experienced the organisation, the more likely is that the specific project will also have a risk mitigation strategy in place. For example, BBC and NLH have comprehensive risk management strategies in place and this is found also in the CenturyShare and NLH LOR projects.
- The degree to which the project involves acquisition of licences by the organisation managing the project: the more licences the organisation managing the project acquires, the more likely it is that a risk mitigation strategy will be in place. For example, the NEN Repurpose project has a very comprehensive risk management tool in place as it acquires rights, whereas the NEN Gallery project is the opposite case as the rights are transacted directly between the creator and the end-user with the project only providing some basic infrastructure.

#### 6.3.1 Summary

- Risk management strategies need to operate at the level of individual rights (eg right of reproduction, right of attribution)
- Dates of expiration of rights should always be recorded
- The permissions acquired by the organisation should be equal or more than the permissions the organisation grants to the user of its services
- Risk management strategies need to be developed in the form of toolkits made available to different organisations to adjust them to their own projects (such as is the case with the various SCA toolkits)
- Risk management strategies need to be evaluated in conjunction with the intended value production streams
- Training in IPR risk management processes have to be developed with respect to:
  - Staff of organisations managing IPR-related projects
  - Users of services that require them to do some form of pre-clearance or clearance of material
  - Project partners involved
6.3.2 Conclusion
Risk management approaches need to be developed in the form of ready-made toolkits, and risk management training is required not only for the staff of organisations managing IPR but also to users performing clearance procedures. The SCA IPR toolkit addresses such concerns.

6.4 Content and rights identification

Works and rights identification is a necessary step toward the development of risk management approaches. It is the stage for example, at which the extent of the orphan-work problem may be identified and therefore measures implemented to manage risk.

The existence of multiple layers of works and rights in the same object has increased the costs of clearance of rights because the number of authors to be identified and the rights to be negotiated has increased. The more layers of works/rights an object contains, the more likely it is that no value, monetary or not, can be created. This is a phenomenon appearing particularly in the context of digitisation projects such as the BMAGIC and the BL ASR projects. This phenomenon is a direct result of the clearance costs for content comprising of multiple types of rights. In projects like BMAGIC, the organisation managing the project does not have the resources to complete the clearance for such works, whereas in projects like BL ASR, the time limitations that the project management imposes make the clearance of such content very problematic. For instance, a sound recording with performance rights, sound recording rights, literary works and musical works is very expensive to be cleared as different rights holders must be identified and then asked to provide all the rights necessary for the work to be usable. The phenomenon of Rights Lowest Common Denominator appears: when multiple parties have rights on the same work, the most restrictive licence terms provided determines the use of the whole work. If no permission is given by just one rights owner, the work cannot be used at all.

6.4.1 The problem of Rights Lowest Common Denominator
The conditions of use of an object that comprises multiple layers of rights is set by the lowest common set of rights awarded by all contributors. If a particular owner cannot be identified or refuses permission, the work cannot be legally used.

6.5 Physical and virtual embodiments of content

It is advisable to differentiate between physical and digital copies of the work as they are governed by different business models. Also, when a work is digitised, new rights on the digital record are sometimes created. This element of rights creation from physical property has a seemingly paradoxical result: works that are no longer in copyright are more likely to be digitised and exploited as they have lower (or zero) clearance transaction costs. Also, in experience-intensive environments such as museums, the proliferation and free dissemination of digital copies of the work are increasing the value of the original physical object that is more likely to be visited and possibly create revenue for the memory institution. For instance, the digital collection of the BMAGIC project attracts visitors to the physical space of the Birmingham Museums and Art Gallery.

6.5.1 Conclusion
The less rights existing in a work the more likely it is to produce value of any kind as the presence of un-cleared rights radically increases transaction costs.
6.6 Maturity of IPR management models

It is neither possible nor desirable to always use a clean hands model. Pure clean hands models are only used in the case where the organisation is only aggregating content that is both licensed and stored by the content providers themselves, such as in the case of the CenturyShare project. In all other cases, such as in the NEN Gallery, NLH LOR, OMII and MyExperiment projects, the content is centrally stored but directly licensed between the participants of the project. Hybrid models are necessary for securing control points and managing the flows of value in relation to flows of rights and works. The maturity of the IPR management model that allows a project to adopt one or another flow model, depends on the existence of proper IPR documentation, coherent IPR policies and appropriate risk management processes in place. Standardised tools such as the SCA IPR Toolkit could greatly assist organisations or projects that seek to adopt one or another flow model.

6.6.1 Conclusion

The type of the IPR management scheme used by an organisation may be assessed on the basis of the existence of IPR documentation, IPR policies and IPR risk management in place and the way they may be serving flows of value.

6.7 Documentation of layers of rights

The documentation of layers of rights needs to be conducted in a way that is interoperable and transferable (we need to all be using rights management systems that are compatible). In the same way as the sharing of user generated metadata decreases the costs of search for relevant content, the establishment of interoperable rights documentation scheme among SCA sponsor organisations could significantly decrease rights clearance costs.

6.8 The issue of attribution and provenance

The case studies indicate that the more permissions are conferred to the end-user in relation to the distributed content, the more likely it is that attribution and provenance requirements will appear. The reason is that the flows of value that are contingent upon the visibility of the work are non-monetary and mainly have to do with reputation. For example, in the case of MyExperiment, where Creative Commons licences are used allowing users to freely share and in some cases repurpose content, the project provides software for proper attribution or listing of the sources of a derivative work.

When the value also derives from the ability of other users to complement or repurpose the work, it is also necessary to be able to trace contributors both in order to be able to properly attribute and to define collective ownership or even be able to trace potential violations of copyright and/or related rights, such as moral rights or communicate with the author of the repurposed item for further collaboration. This has been experienced in the MyExperiment and NLH LOR cases.

Even in cases where the objective is not obtaining value, the requirements of attribution and provenance relate to the need to reduce potential costs: in the BMAG project, the main concern with repurposed work is its quality and the need to differentiate user-generated from in-house produced content in order not to harm the institution’s reputation.

6.8.1 Conclusion

The closer we get to the model of unrestricted sharing and repurposing of content, the more likely the need for attribution, quality assurance, source tracing and provenance.
6.9 Legal and regulatory issues

The existence of different types of licences for the items stored in different collections requires some sort of licence management system that ranges from simple Excel databases (as used in the BL ASR I project) to the SPECTRUM standard used by the Collections Trust.

The problem of high clearance costs appears mostly in collections of great cultural but low market value or extensive collections consisting of work with multiple layers of rights (e.g. in the case of the BL ASR project). In particular:

- Large public organisations are obvious litigation targets, they are difficult to be indemnified and run great reputation risks from violating any IPR-related rules

- The economic rationale behind the existing copyright laws is appropriate for works that have a clear market value, such as commercial sound recordings. However, it is inappropriate for works with low market value, and often not properly documented, but with high cultural and educational value. For such works the costs of identification and negotiations of rights is far greater than the actual cost of acquiring the rights. Such costs often cancel any effort to make them available. This is the case with orphan works and has been very vocally expressed in the case of the BL ASR collections

- When a work comprises multiple layers of rights belonging to more than one rights holder, it is most likely that the transaction costs of clearance will make its digitisation or dissemination impractical. This is not merely a result of the primary costs described in the previous points but also due to the incremental cost that each additional work has for the whole of the project in terms of time: any publicly funded project has to be completed within a certain time frame and this is not possible if the rights are not previously cleared. The situation is extremely difficult: the funding is for content that will be made publicly available but the content cannot be made available if they are not cleared. If the content is first cleared and then digitised, then the risk of project delay appears as clearance procedures can be extremely lengthy. If the content is first digitised and then cleared, then the project runs the risk of having digitised material that will never appear in public. This might be in breach of the funding agreement, and certainly will involve wasted time and money. These problems appear in particular in the BL ASR project.

6.9.1 Conclusion

The ‘IPR jam’ or ‘licence pollution’ phenomenon describes the situation where existence of multiple layers of rights and rights holders on a single object make any extraction of value impossible.
7. Key findings

7.1 Types of value

- All participating organisations are primarily interested in the production of non-monetary value, as expressed in their cultural (BMAGIC and BL ASR), educational (NEN Repurpose and Gallery), scientific (MyExperiment and NLH LOR), preservation (BMAGIC and BL ASR) and public service (BBC CenturyShare) objectives.

- Monetary value considerations appear, mainly, in respect to the reduction of costs (NEN Repurpose), securing funding (BL ASR) and achieving sustainability (OMII) of the projects.

7.2 IPR negotiation implications for project management

- Escalation of Intellectual Property Rights (IPR) management costs is a major concern for the majority of the SCA sponsor organisations. Securing permissions from IPR owners, in particular, has costs that are difficult to estimate in advance, as it is not always clear who the rights-owners are and how long the negotiation process will last (BMAGIC and BL ASR).

- The process of rights-owners identification, permissions negotiation and licensing of rights poses high risks of delaying the implementation of large digitisation projects and can have potentially adverse effects on current and future funding (BL ASR).

- The problem of Rights Lowest Common Denominator: the conditions of use of an object comprised of multiple layers of rights is set by the lowest common set of rights awarded by all contributors. If a single author cannot be identified or refuses permission, and the use of the content depends on obtaining permissions from all rights holders, then the content cannot be legally used (BL ASR).

7.3 Issues with the current copyright legislative framework

The current Copyright legislative framework is designed for high-commercial value, easily identifiable content, whereas the majority of the content managed by public-sector organisations comprises low-commercial high-cultural, high-volume content authored by individuals who are very difficult to trace (BL ASR).

7.4 Reducing infringement risks

Notice and take-down procedures may mitigate legal risks from infringement of IPR (NEN Repurpose and Gallery, NLH LOR, BL ASR).
7.5 Implications for the current copyright legislative framework

The fewer the rights in a work, the more likely it is to produce value of any kind, as the presence of uncleared rights radically increases transaction costs (BMAGIC, BL ASR).

7.6 Clarity of licensing terms

The flow of rights and works within or between the public-sector projects and organisations is facilitated by licence agreements, the terms of which are not always clear to the users of the works (BBC CenturyShare, NEN Gallery, BMAGIC).

7.7 Raising IPR awareness and increasing IPR management competence

- There are variable levels of IPR awareness among members of staff in different organisations and this causes significant problems in the implementation of IPR policies (all projects)
- The increasing inclusion of User-Generated Content (UGC) in collections managed by public-sector organisations makes the education of the general public in issues of IPR as important as that of their personnel (BMAGIC, NEN Repurpose and Gallery, BBC CenturyShare, NLH LOR)

7.8 Making the content relevant to the user

- The existence of a rich collection of e-content with no legal access limitations does not automatically mean that it is actually accessible. The ability to associate the content with the users’ context and to share metadata, such as tags or comments and search results is essential for achieving accessibility of the e-content (NEN Gallery, BBC CenturyShare)

7.9 Assessing the IPR maturity of an organisation or project

Across the case studies, the maturity of the IPR management scheme used by an organisation or project may be assessed on the basis of the existence of IPR documentation, IPR policies and IPR risk-management schemes in place and the way they may be serving flows of value.

7.10 Maintaining a single clearance point

When a project is hosted by multiple institutions in the course of time, there needs to be a single organisation holding the relevant IPR in order to ensure its continuity and sustainability.

7.11 Open Access and reuse issues

7.11.1 Benefits of an Open Access and reuse approach

Open Access, sharing and reuse of e-content is increasingly becoming integral to any e-content management scheme. This is a direct result of the gains in effectiveness and efficiency that such content management approaches offer. They also can lead to efficiency gains by reducing duplication of efforts and allow accumulative and incremental development of e-content with low transaction costs (NEN Repurpose and Gallery, MyExperiment, NLH LOR, OMII).
### 7. Key findings

#### 7.11.2 Conditions of Open Access and reuse of e-content
Open Access, sharing and reuse of e-content are almost invariably allowed only under certain conditions. The most common limitations include: (a) non-commercial, private and educational or research use; (b) use within the system of UK primary/secondary education or HE/FE context; and (c) use only within the UK (NEN Gallery and Repurpose, BL ASR II, MyExperiment, NLH LOR, OMII, BBC CenturyShare).

#### 7.11.3 Cost of Open Access and reuse of e-content
Open Access, sharing and reuse of e-content are activities that require dedicated curation and continuous update of the collection, as well as conscious community building. As a result, such modes of e-content management may entail greater value creation but may also have high maintenance costs (NEN Gallery and Repurpose, BL ASR II, MyExperiment, NLH LOR, OMII, BBC CenturyShare).

#### 7.11.4 Use of standard open content licences
Projects in different organisations often use licences with terms incompatible with each other. In addition, the users of the licences do not always understand the conditions under which they are allowed to use the material. As a result, repurposing projects either cannot scale beyond the realms of a specific organisation or there is always the risk of producing works in violation of the terms of the relevant licence agreements (MyExperiment, NLH LOR, BL ASR II).

#### 7.11.5 Attribution, provenance and quality assurance
- Tracking of content, especially when this is to be repurposed, is still underdeveloped, but is essential for the maximisation of efficiency gains from the reduction of duplication of effort and incremental development (MyExperiment, NLH LOR)
- The closer we get to a model of unrestricted sharing and repurposing of content, the greater the need for attribution, quality assurance, source tracing and provenance (MyExperiment, NLH LOR)

#### 7.11.6 Differentiation between user-generated and professionally created content
There is a trend to differentiate between user-generated and professionally created content: the former is usually made freely available for reuse whereas the latter is treated as premium content that may be used only privately and for non-commercial or educational purposes (BBC CenturyShare, NLH LOR).

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<table>
<thead>
<tr>
<th>Types of Value per Case Study</th>
<th>BL ASR</th>
<th>BMAGIC</th>
<th>VoB</th>
<th>BBC CenturyShare</th>
<th>MyExperiment</th>
<th>Becta NEN Repurpose</th>
<th>OMII</th>
<th>NLH LOR</th>
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</thead>
<tbody>
<tr>
<td><strong>Conclusions</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Escalation of project</td>
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<tr>
<td>management costs as a result</td>
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<td>Risk of losing future</td>
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<td>funding because of problems</td>
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<td>with the clearance procedure</td>
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<td>The Rights Lowest</td>
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<td>Common Denominator problem</td>
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### Types of Value per Case Study

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<th>Case Study</th>
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<tr>
<td>The current legal framework is not designed for high volume, low economic – high cultural value works</td>
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<tr>
<td>Notice and take-down procedures reduce IPR infringement risks</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>The fewer the rights in a work, the more likely it is to produce value of any kind, as the presence of un-cleared rights radically increases transaction costs</td>
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<tr>
<td>Need for clarity in the licensing terms to facilitate flow of content</td>
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<td>X</td>
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<tr>
<td>The level of IPR awareness varies even within a specific project</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Use of User-Generated Content (UGC) requires educating the staff and the public regarding IPR and open licensing in particular</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>The existence of material that is freely and legally available is only actually available when the audience may relate to it.</td>
<td>X</td>
<td>X</td>
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<tr>
<td>The maturity of the IPR management of a project may be assessed on the basis of the existence of IPR documentation, policies and risk-management schemes in place</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>When a project is hosted by multiple institutions in the course of time, there needs to be a single organisation holding the relevant IPR in order to ensure its continuity and sustainability</td>
<td>X</td>
<td></td>
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<tr>
<td>Open Access can lead to efficiency and effectiveness gains</td>
<td>X</td>
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<td>Types of Value per Case Study</td>
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<tr>
<td>Open Access to content is normally conditioned upon: (a) private/non-commercial/educational/research use; (b) only within the UK; (c) only by members of staff and students of primary/secondary, HE/FE institutions</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Open Access and UGC has costs of actively curating the content</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>When the open content licences allow reuse of the content, it is desirable that they are standardised in order to avoid islands of content</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>The more we move towards a model of granting more permissions to the end user, the more the need for attribution and provenance</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>UGC is normally provided with more permissions compared to content owned by the institution making the content available to the public or owned by professional third parties (e.g., publishers)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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8. Key recommendations

8.1 Recommendations to funding bodies

1. Take into consideration the implications of rights clearance when drafting the funding contracts.
2. Provide specific funding for the production of IPR and risk-management toolkits as well as targeted IPR clearance training:
   - Risk-management approaches need to be developed in the form of ready-made toolkits (such as the SCA IPR Toolkit) and risk-management training is required not only for the staff of organisations managing IPR but also for users performing clearance procedures.
3. Create specific funding programmes for increasing the IPR management capacity of public-sector organisations.

8.2 Recommendations to organisations managing e-content

1. Develop your own risk mitigation and management procedures:
   - Risk mitigation and management processes have already been developed by initiatives like the Strategic Content Alliance. Individual organisations need to customise such model processes to their own needs.
2. Develop your own IPR training material or customise the existing ones:
   - IPR toolkits have already been developed by the SCA. Individual organisations need to customise these toolkits to suit their own needs.
3. Train your personnel on IPR-related issues:
   - Training should be of variable levels depending on the familiarity of the personnel with IPR issues.
   - There should be specific training on risk-management approaches and the use of Open Licensing schemes.
   - A briefing paper on the issues associated with the use of Creative Commons licences has been included as part of the SCA IPR Toolkit.
4. Educate your user base on the Do’s and Don’ts in relation to the content you make available. The SCA IPR Navigation Map can help by providing an overview of the types of rights issues that might arise when creating and/or using content, the questions that staff need to ask, and points to template resources that can be tailored to address any arising issues.
5. Have an explicit and clear IPR policy and appropriately communicate it to your personnel and users:
   - When the project deals with User-Generated Content, it is necessary that not only your staff but also users fully understand your IPR policy.
   - Ownership and decision-making rules need to be clear and easy for users and members of the staff to understand.
   - The SCA IPR Toolkit has generated some draft IPR statements, which can be modelled to suit individual requirements.
6. Make sure that the End User Licence Agreements terms and conditions are understood by your users:
   - Licensing terms and conditions can be more easily understood by users if supported by icons or short accounts of their key points, such as those used within the Creative Commons licences example.

7. Think of uses of your e-content beyond the boundaries of your own organisation or project:
   - In content repurposing projects it is necessary to think beyond the boundaries of a single organisation
   - If the content is to be contained within a defined set of organisations and communities then a customised licence is needed. This may be necessary due to the limitations set by the charter of the organisation or the conditions of funding
   - If, however, there is any prospect of combining content from other sources or initiatives, it is necessary to follow more standardised forms of open content licensing.
   - Cluster with other organisations or projects and agree on common licensing policies for the linking and reuse of content
   - Create interoperable and voluntary copyright registries. While registration of copyrighted works is not mandatory by law, it would be beneficial to register copyright information (such as author, date of creation etc) in order to facilitate future reuse of the work. Such information could be held in copyright registries, private or public, which, nevertheless, should be standardised and interoperable with each other. Interoperability is essential for the organisations wishing to employ the information contained in such registries

8. Create value-added services for Web 2.0 and open content by considering the following issues:
   - Track reuse of material
   - Record reuse patterns
   - Monitor the quality of reused content
   - Assist in the improvement of the quality of open content and open source development processes
   - Establish:
     - Prior informed consent protocols
     - Mechanisms for the protection of minors and
     - Personal data retraction procedures

8.3 Recommendations to policy makers

1. Establish a uniform licensing policy for content produced within the public sector:
   - There needs to be an obligation of all public-sector organisations to make licensing terms of use of their e-content explicit and clear
   - When the licences allow repurposing of content, such licences should be compatible with each other

2. Consider how best the Copyright legislation could be amended to accommodate orphan works' and memory institutions’ (museums, libraries, archives) exceptions. The solution suggested by the participants in the case studies (particularly the BL ASR case) is to simplify, automate and collectively manage the procedures that are currently served by licensing and gentlemen’s agreements. Such automation would address two core problems:
   - Preservation of content by libraries
   - Orphan works

55 Copyright registries are not contrary to the existing legislation that abolishes any formalities for granting Copyright protection, as registration is only voluntary.
3. Consider how best the Copyright legislation could be amended to accommodate the digitisation and dissemination of high volume, high cultural/low commercial-value works belonging to authors whose identification poses significant challenges. Such amendments should include the following elements:

- Ensure that there is no difference between digital and analogue copies in terms of the Copyright Law exceptions related to preservation.
- Ensure that there are statutory provisions permitting dealing with orphan works providing that the following conditions are met:
  - A diligent search has been conducted to try to identify the rights owner.
  - The search process has been documented.
  - The effort to find the owner has included using advertising.
  - A notice and take-down and awaited claims procedure are in the place where the content is being made available.

Such a solution could be implemented through an extended or compulsory blanket licence with statutory backing. Any project wishing to use a work for which the author is not identified could pay a fee to the organisation administering the relevant licensing scheme in order to enter a safe harbour. If the author is ever discovered, they will be able to collect the money from the relevant organisation. The money left after rights owners have received due compensation could either be used to fund development projects or to further fund digitisation projects managed eg by the public bodies who have paid the licence fee.

4. Develop a single rights clearance and registration service for e-content produced by public-sector organisations:

- Establish procedures for all public-sector organisations for registering their content.
- Make available a free or low-cost rights clearance service to all small and medium public-sector institutions.

56 In the case that the public-sector organisations or projects are required to register their e-content with such a service by virtue of a circular or other internal regulation, there is no violation of the relevant legislation that abolishes formalities for granting copyright protection. Failing to register content will not lead to unprotected work but to violation of a voluntary code of conduct or internal regulation with no further consequences.
9. Concluding remarks

This report presents a methodology for assessing flows of value and licences or permissions over publicly funded content in the UK. It focuses on seven case studies and traces the ways in which different forms of value are created through different licence-management approaches. Three basic models of flows of permissions and content are examined in order to assess their possibility to create different forms of value. Finally, a series of conclusions are drawn and recommendations are made for how the management of flows of content and permissions may be improved in order to deliver the desired forms of value.

The projects featuring in this report may be broadly classified in three categories:

- Projects aiming at digitising content and then making it available to the public (e.g., BL ASR I, VoB and BMAGIC)
- Aggregation, curation and dissemination projects (such as NEN Gallery, and BBC CenturyShare)
- Projects seeking to encourage repurposing and sharing of content (such as BL ASR II, MyExpriment, NLH LOR and OMII projects). These projects are also often interested in increasing the quality of the content produced (OMII)

Each of the three aforementioned categories of projects faces different core difficulties in achieving its objectives and hence uses different flow-management models.

All projects, but particularly the digitisation projects, face problems with respect to the clearance procedures. The current copyright regime is not friendly to this kind of activity that involves high volumes of works with low commercial but high cultural value that do not have easily identifiable authors. The clearance problems have a direct impact upon the permissions associated with the content that is further disseminated. The institutions performing the digitisation often face severe budgetary limitations (such as is the case with BMAG) or have project management concerns (e.g., BL ASR) that set limits to what may and what may not be cleared. As a result, some works remain inaccessible to the public. This is particularly true for works in which multiple layers and types of rights exist. The digitisation projects normally follow a centralised, star-shaped model for the clearance, storage and dissemination of content and permissions, due to budgetary limitations and organisation. The value objectives of such projects are mainly cultural and relate to the preservation of the material as well as in its making available to the research community.

In cases such as the Vision of Britain project, where the institutions hosting the project have changed many times, the continuity of the project has been secured by making sure that a person initially, and later an entity, was the sole recipient of all necessary permissions for carrying out the project.

The second group of projects, i.e., aggregation and dissemination projects, are mostly concerned with issues of collecting digitally born content and then making it available either to the general public or to specific kinds of users (e.g., HE/FE). This type of project is not so much concerned with the problem of orphan works, as are the digitisation projects, but rather with the issues: (a) of how to manage risk in the collection of the material and the required licences; and (b) of how to make it available to the audience. In terms of collecting material and licences, different models of managing the related flows exist. For instance, the NEN Gallery project stores all the content centrally, whereas the BBC CenturyShare project does not collect any licences or store any content, but follows instead a clean-hands approach leaving the content providers to decide on the licensing terms and to host the actual content. In all such projects, the user is
not really allowed to share the content itself, since the only entity authorised to make the content available is the entity managing the content. The user does not obtain permissions for further dissemination of the content.

An interesting approach is the one followed by the BBC CenturyShare project, which provides only links to the content rather than the content itself. In that sense, the users are able to share collections of links, but they never get any permission to share the content itself. The value of the project is in allowing the users to combine and contextualise the content by creating lists of content and only having access to it. At the same time, the legal risk of infringement is minimal since the user never acquires any permission to act as a disseminator and each content provider is responsible for the management of their own collection. The main conclusion from studying all such projects is that they need ready-made IPR management, risk-management toolkits like the ones SCA has already produced, as well as standardised procedures in order to be able to manage effectively their content.

The last category of projects comprises projects allowing actual sharing and reuse of the content they host. Two predominant models emerged out of this study. The one is the walled-garden model, which normally assumes the existence of a consortium of parties participating to the project. Within the consortium, the sharing and even reuse of the material is possible through a series of cross-licensing agreements: each party licenses its content to the rest of the members of the consortium to share and reuse the content and all parties license the content to the managing organisation. This model is found in the case of the NEN Repurpose project and is based on a consortium agreement that also stipulates at least the framework of the cross-licensing agreements within the walled garden. The second model is the one seen in the cases of MyExperiment and NLH LOR, where standard Creative Commons licences are used in order to share and repurpose the content. While these projects provide incentives to its members to use the content over their respective platforms, there is no legal or other limitation for how the content could be further disseminated.

Interestingly, in the MyExperiment and NLH LOR projects, the choice of standardised licences was done on the basis of the community norms in the two projects: the MyExperiment project opted for all the CC licences allowing commercial use of the content, as this was the prevailing norm in the relevant communities that did not want to impose any additional burdens or limitations to their users. These norms followed the Open Source software norms seen in the OMII project. The NLO LOR project on the other hand opted for the Non-Commercial licence as it viewed itself as a project primarily concerned with non-commercial uses of the content and wishing not to encourage any commercialisation of the content.

The walled garden projects were primarily interested in retaining control over the use and dissemination of the content within a certain area. This was primarily driven by concerns of providing protection for its users, eg minors in the case of the NEN Repurpose project. Projects like MyExperiment and NLH LOR, were primarily interested in maximising value from the reuse of the content and were addressed to communities of users that could self-regulate the quality of the content and protect their members. Their main concern was not to create islands of isolated content. However, even in the latter case not all CC licences are compatible with each other and the users of such services need to be aware of their operation and the limitations they pose.

In the projects providing their users with the most liberal licences, ie with permissions to share and repurpose, there is active moderation of the collections and an effort to provide structures allowing proper attribution and provenance. For instance, in the MyExperiment project, the users are prompted to attribute when they share and to name their sources when they reuse.

An interesting approach is provided by the BL ASR II project, which follows a hybrid model. It allows sharing and limited reuse of the material within the walled garden through a series of sublicensing agreements, whereas the general public has access only for private, non-commercial use without the ability to share or repurpose.

The common element in all the projects allowing reuse and sharing of the material is that the more the permissions they allow, the more likely they are to have more robust mechanisms ensuring that the rights have been cleared (eg by controlling membership in the case of the NEN Repurpose and BL ASR II projects) or that the sources and trajectory of content are traceable (eg MyExperiment). Also, all projects that allow...
some form of user participation and the production of user-generated content, even when there is not actual sharing of the content but only of the links to it (eg the BBC CenturyShare project), require active moderation and curation.

All three types of projects, ie digitisation, aggregation and sharing/reuse projects, may be seen as stages in a process of providing more substantial, diverse and relevant access to digital material. Each one of these types of projects requires a higher level of IPR management maturity in order to be implemented. IPR management maturity does not mean stricter control mechanisms or less qualitative and quantitative access for the user. It rather means coherent mechanisms of rights clearance procedures, licence inventories, interoperable metadata, risk assessment toolkits and clear expression of the terms and conditions of use to the end-user. The more liberal forms of licensing, such as standardised licenses allowing reuse and repurposing of material, require that the organisation managing the project has a clear understanding of how the clearance, aggregation, dissemination and reuse/repurposing of the content will take place.

Technological infrastructures are also necessary. These may appear in the form of licensing management systems that would allow having a clear idea of relevant licences used in a project (eg see BL ASR licence database) but also in the form of rights registries to register the use of specific works (eg see the ccMixter user interface for tracing the sources of remixed works).

Overall, the constantly growing body of digitised or born-digital content that flows within the public sector needs to be brought closer to the context and needs of the end-user. The tools, such as the SCA IPR Toolkit or the Collections Trust SPECTRUM terminology are good steps towards assisting projects to make their content more widely available and use content from other projects as well. Further education both of members of staff and users is, however, essential to make such tools truly operational.

57 http://ccmixter.org
58 www.collectiontrust.org.uk/spectrum-terminology
Appendix I
Questionnaire

SCA study: June–August 2008

Title: IPR and licensing management in the public sector: tracing flows of content, rights and value
Authors: P.K. Tsiavos, N. Korn
Document Type: Questionnaire

Description: This document will be used as a basis for the interviews and on-site visits for the case studies. This version is intended to be complemented in the course of the study by other questions or sections on the basis of the feedback from the interviewees. It is divided in four sections: (a) General Information about the organisation and the interviewee; (b) information about the technical infrastructure; (c) flows of rights and works; (d) generating value for the user and the project. The questions are not necessarily meant to be followed during the interview in a serial fashion, but rather have to be seen as themes that need to be covered or questions that have to be asked. The interviews will be semi-structured and supported by empirical evidence obtained by the observation of the physical space and relevant software applications.

This questionnaire will be made available to the case studies in advance in order to give an overview of the themes that will be covered during the collection of the empirical material.

Scope: The information produced from the case studies is expected to provide:

- An interoperable blueprint for the flow of rights, value and content across the public sector, indicating points of tension and convergence
- SCA Sponsors and other stakeholders in the sector with the evidence base and diagrammatic representations illustrating the current state of the flow of content and rights across and beyond the public sector, and the subsequent future opportunities that might be harnessed
- An indication of the critical channels where further development of IP tools by the SCA IPR Consultants is required
- Crucial information, which can be harnessed by other SCA work packages (eg audience development, sustainability etc)
- Further information about the context for works in which the rights holders cannot be traced, to tie in with any surveys of orphan works in which the SCA might have an interest
- An opportunity to capture the research methodology used in this project, which can be harnessed by other organisations across the public sector wishing to map their flows of content, rights and value
- An indication of any variants on this blueprint influenced by future aspirations (such as changing platforms of delivery etc), to ensure that the SCA can provide and plan for strategic direction relating to e-content access and use in the future
- An international audience for the work of the SCA IPR Workpackage

59 We use the term ‘content’ in order to denote the entirety of works as contained in the system under study. The term ‘work’ is employed when we need to specify a unit in the collection or system we examine. ‘Content’ is also used in the same way as in the copyright literature in order to differentiate from software. The term ‘object’ is used only in the phrase ‘learning objects’ in accordance to the relevant terminology of the field
Areas to be covered:

- Relationship of flow of rights with requirements of funding bodies
- Multiple layers of rights (including copyright and database rights)
- Life-cycle of e-content across multiple platforms of delivery from acquisition/creation to public access and exploitation

Section One – General Information

1.1 Interviewee information
1.1.1 Interviewee name:
1.1.2 Interviewee position:
1.1.3 Interviewee background:
1.1.4 Duration of interviewee’s involvement in the project:
1.1.5 Interviewee’s role in the project:

1.2 Project information
1.2.1 Organisation name:
1.2.2 Organisation type I (public/private): 
1.2.3 Organisation type II (archive, museum, library, educational institution, funding body, health service, public-sector broadcaster, other):
1.2.4 Project name:
1.2.5 Project type (eg storage/portal/archive/information provider/social network/audience building etc):
1.2.6 How would you (briefly) describe the role of your organisation?
1.2.7 How would you (briefly) describe the role of this project in relation to the overall mission of the institution?
1.2.8 When was/is the project initiated? Is there any termination date?

1.3 Linking of the project with other activities/organisations
1.3.1 Are there any other partners involved in this project and what are their roles?
1.3.2 Do you have any formal agreements in place with project partners?
1.3.3 Are there any terms and conditions within these agreements that stipulate obligations regarding IPR and licensing?

1.4 Institutional/project IPR policies
1.4.1 Is there a project IPR policy in place?
1.4.2 What does such policy cover (eg deposit, access, linking, use etc)?
1.4.3 Is there a project-specific IPR policy?

1.5 Risk management
1.5.1 Have you considered how you might deal with risks associated with Intellectual Property Rights within your project (eg uploading or linking to unauthorised material)?
1.5.2 If yes, what types of risk are there and what criteria do you use to evaluate risk?

1.6 User engagement
1.6.1 Who are the expected users of your project services?
1.6.2 How are users engaged with the content (consumers/producers/aggregators/other)?
1.6.3 How were user requirements collected/specified?

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60 The theme appears in more detail in section 3.
61 Questions 1.6.1 and 1.6.2 are discussed in more detail in section Three, where the flows of works and rights are explored
1.6.4 How do you receive input from your users?

1.7 Staff attitudes
1.7.1 What is the level of staff’s understanding and acceptance of the project?
1.7.2 What is the staff’s approach and attitudes to IPR and in particular to any terms and conditions relating to access, linking and use policies?
1.7.3 How have you/are you intending to communicate to staff their rights-related roles and responsibilities associated with this project?

1.8 Budget
1.8.1 What is the project’s annual budget?
1.8.2 What does the budget cover?
1.8.3 How many people are involved in the project?
1.8.4 Where does your funding come from?

Section Two: Technical Infrastructure Information
2.1 What are the technologies used for the development of the infrastructure?
2.2 Is the software used for your system Open Source?
2.3 If not, who owns the IPR on your software?
2.4 Is there a maintenance contract?
2.5 If yes, then what is its annual cost?
2.6 If the software is outsourced, what is the duration/cost of the contract?
2.7 What is the annual maintenance cost of the system?
2.8 Is there provision for future extension of the system?
2.9 With what other systems does the CenturyShare service interoperate?
2.10 What kind of issues, if any, have you faced in relation to the implementation of the system?
2.11 Is there a risk-management approach specifically for the development/implementation of the CenturyShare system (eg project escalation, interoperability risks etc)?
2.12 What are the main elements of the risk-management approach?

Section Three: Flows of Rights and Content

3.1 Content type
3.1.1 Will there be any works stored in your collection (eg audiovisual material, software, text, raw data etc) or merely references to other material?
3.1.2 How will the packaging of reference take place (eg will you be creating reference packs or will there be any content cached)?
3.1.3 In what format will the relevant material be stored (eg MP3s, WAVs, ASCII files)?
3.1.4 How are your metadata stored/made available?
3.1.5 Will there be any deep linking used or streaming through your own player?

3.2 Contributors and consumers of material
3.2.1 Who are the potential users of your service\textsuperscript{62} (eg researchers, research centres, students etc)?
3.2.2 Will access to your service be restricted on the basis of the individual user or its organisation?
3.2.3 Will all users have the same level of access rights?
3.2.4 If not, what will the hierarchy of users?
3.2.5 Will there be a specific procedure for a user of the service to become a contributor (eg some form of additional registering and approval procedure)?
3.2.6 What kind of information will you be collecting in relation to the users of your service?

\textsuperscript{62} A user of the National eScience Centres service may be both a consumer and provider of material
3.2.7 Will the bulk of your material be user generated (e.g. by individual user) or will it be already made by the organisations to which you will link?

3.2.8 Will the users of your service be able to contribute both to the stored content and the formation of metadata?

3.3 IPR policies
3.3.1 Will there be any IPR policies in place regarding the clearance and acquisition of rights when a work enters your system?
3.3.2 Will there be any IPR policies regarding the relationship between different project partners?
3.3.3 How will IPR policies be implemented in the software used for your service?

3.4 Introduction of a new work in your system
3.4.1 Describe the ways in which a work may enter your system in the following scenarios:
- A link is introduced by the user/your own staff
- A user uploads content on your system
- The content is uploaded by your own staff
- Other
3.4.2 Will there be any storing of data on your system or will you operate as a gateway for other organisations’ content?

3.5 IPR-related information and its representation in your system
3.5.1 What kind of IPR information is stored regarding the works entering your system (even if you are to operate as a gateway)?
3.5.2 How will you deal with the recording of multiple layers of rights in a single work (different rights holders [e.g. multiple authors] and different right types [e.g. sound recording, text, images])?
3.5.3 Who will enter such IPR information into the system?
3.5.4 How will the integrity/accuracy of such IPR information be controlled?
3.5.5 Is there a risk assessment/mitigation tool for the process of a work entering your collection (e.g. not allowing the work to be stored before all IPR-related information is contained and/or the work to be assessed in terms of IPR risks it may pose depending on its IPR status)?
3.5.6 Will you make available any works for which you do not have any IPR information or do not have any permission to use beyond storing them?
3.5.7 Will you have information about the kinds of works that will be included in your packaged output (e.g. a single item in your system may comprise multiple musical, literary and audiovisual works)?
3.5.8 Will you have information about the author[s] of contributed material (who they are/contact details) or the sources of their material (e.g. pre-existing works etc)?
3.5.9 Will you have information about the time of production of the works?
3.5.10 How will such information be stored?
3.5.11 When will such information enter the system (e.g. when the work enters the system or later)?
3.5.12 Will it be possible to include a work in your collection without such information in place?
3.5.13 Will it be possible for the general audience to have access to such works when the IPR information is not available (i.e. do you make available works when permission has not been sought or secured)?
3.5.14 How will you coordinate with the associated organisations from which you get content in relation to all relevant IPR information?
3.5.15 How will you ensure legal interoperability in the case of multiple licences?
3.5.16 Will you allow users only to download or also mix content? Will you provide any licensing arrangements or technical platform supporting such collaboration?
3.5.17 How will you deal with out-of-copyright content?

3.6 Orphan works
3.6.1 Will you link to any material for which you have no IPR information? Can you provide us with an estimate of the number of such works included in your meta-collection?
3.6.2 Do you link to material for which you have IPR information but you cannot contact the author? Can you provide us with an estimate of the number of such works stored in your collection?
3.6.3 Will you link to any material for which you have IPR and author information but you have not secured permissions for their use? Can you provide us with an estimate of the number of such works stored in your collection?

3.7 Clearing issues
3.7.1 Will you act as a clearing hub for different types of content linked from your service or will you let this issue be tackled by the content providers?
3.7.2 How will you ensure legal interoperability between different types of content that will be provided through your service (e.g., free content provided under different licences)?
3.7.3 Has the existence of IPRs on some works played any role in including works in your collection?
3.7.4 Will you be buying any licences or suggest to other organisations to buy licences in order to include works in your collection?
3.7.5 If yes, can you give us some examples of such licences and their terms?

3.8 Metadata and linking issues
3.8.1 Are metadata produced only by your service or are there any user-generated metadata (e.g., social tagging) as well?
3.8.2 Do you have any IPR policies regarding metadata management in particular (e.g., database rights on metadata or making them available under some form of open licensing scheme)?
3.8.3 How do you deal with issues of fair dealing/licensing in relation to linking? Is there provision for a common licensing framework or will you be relying on fair dealing provisions for the provision of the your service?

3.9 User-generated content in particular
3.9.1 What will be the IPR policy for user-generated content:
- No IPR policy
- The user retains all their IPRs
- The user retains all IPRs but provides a licence to use the material for specific purposes (what are the terms of such licence?)
- The user assigns all rights to your organisation
- The content is made available through some form of open content licensing scheme (e.g., GPL/CC-BY-NC-SA/Creative Archive licence)
3.9.2 How will such policies be implemented (e.g., who enters the relevant information) and enforced?
3.9.3 Is there a risk-mitigation strategy for the case when the user does not own/has not cleared the content that is uploaded?
3.9.4 Is there any effort to educate users in the way in which they may upload or use content (e.g., in relation to the clearance of rights of the content uploaded)?
3.9.5 How does the existence of users from very different backgrounds/disciplines/sectors influence the management of your collection?

3.10 Derivative works
3.10.1 Does your service allow users to upload derivative works based on existing harvested works?
3.10.2 Will there be a process/system tracking the sources/development of derivative works?
3.10.3 What kind of licensing scheme is used in order to make the production and clearance of derivative works in your system possible?

3.11 Making the works available
3.11.1 Are there any rights management technologies imposed in the delivery of your material (e.g., restricting access to, copying of, changes to or tracking use of the work)?
3.11.2 What kind of licensing schemes will you have in place regarding access and use of the work?
3.11.3 Do you have a single licensing scheme used to make the works available to the audience or multiple ones depending on the type of user/organisation/subscription?
3.11.4 Are you using free/open content licensing? What kind? Why?
3.11.5 Will your End-User Licence Agreement be service or content centred?

3.12 Licensing in and licensing out overview
3.12.1 Please make a comprehensive list of:
   a) The licensing schemes you use as a consumer of works
   b) The licensing schemes you use as a provider of works
   c) The licensing schemes you use as a disseminator and aggregator of works from other sources
   d) The licensing schemes you use in order to acquire works from various contributors
3.12.2 Please indicate how your funders’ IPR policies influence the licensing scheme used by your organisation.

Section Four: Generating value for the user and the project

4.1 Sustainability
4.1.1 Is there any exploitation/sustainability strategy in place in relation to the provision of your services?
4.1.2 List the main types of value in your project (eg education, knowledge, economic value, establishment of a common pool of resources, linking, cultural goals).
4.1.3 List the main beneficiaries of this project vis-à-vis the previous list of types of value (eg contributor, user, organisation, community).
4.1.4 List the main sources of such value (eg use of content, use of services, access to relevant community).
4.1.5 What do you understand to be the value of linking as well as the use of metadata in your project?

4.2 Exploitation
4.2.1 Do you provide different types of services (with different pricing if applicable) to different types of audience? What are these services?
4.2.2 Do you facilitate the selling of works or services of the organisations that produce the content you link to?
4.2.3 Do you plan selling services based on your management of content expertise (eg knowledge management services)? If yes, which, and to what kind of audience?
4.2.4 Do you plan selling courses/training? If yes, which, and to what kind of audience?
4.2.5 Do you plan selling rights (eg rights over metadata generated in your platform)? If yes, which, and to what kind of audience (eg to other content providers)?
4.2.6 Is there any tracing/monitoring of the impact of online strategies/availability of content to the types of revenue?
4.2.7 Do you have any other sources of funding (eg public funding) that affect the ways in which you plan to exploit your service?

4.3 Open/free content as a multidimensional source of value
4.3.1 Is there a strategy for capturing the needs of different users regarding the content?
4.3.2 What is the percentage of your content that is produced by users vis-à-vis the content that is centrally provided to them?
4.3.3 Is there provision for supporting reuse and update of works appearing in your system?
4.3.4 What kind of licensing schemes are in place in order to facilitate sharing and reuse?
4.3.5 Provide an example of how a user/community of users may benefit from free sharing of content or the linking of resources:
4.3.6 How are users made aware of their rights/obligations regarding sharing/reusing content in your system?
4.3.7 How are raw data used/shared in your system (are any free/Open Access licensing schemes in place) and why is such use important to your users?
4.3.8 Is free sharing/reusing of content (use of open/free licensing) on your system a condition for funding by public or private bodies?
4.3.9 Is free sharing/reusing of content (use of open/free licensing) on your system a result of community norms (normal conduct within the context in which you work), is it the result of a tacit understanding of how practitioners and academics work in your field or is there another reason why you have opted for free/Open Access?

4.3.10 Do you explicitly mention the existence of free/Open Access licensing schemes when applying for a grant/funding?

4.3.11 How can free/Open Access contribute to the educational/research uses of the material made available by your service?

4.3.12 How can free/Open Access provide indirect forms of economic value for the user (eg reputation, access to community, value added to their work) and the project (eg providing value-added services, being able to transfer knowhow in other contexts)?

4.3.13 Is there an effort made to publicise your free/Open Access conditions and link them to your educational/research objectives (eg target specific groups of educators)?

4.3.14 How does the use of open/free content licensing for user-generated content contribute to the commercial, educational and cultural objectives of your project (eg encourage the production of educational packages from your material (educational) or provide value-added knowledge and education management services (commercial))?

4.3.15 How do you manage quality of the content vis-à-vis retaining open/free content policies?

4.3.16 How do you ensure there is the licensing/legal framework for the users to maximise benefits from the provision of your services?

4.4 Future stages of project development

4.4.1 What is the primary value provided by your project?

4.4.2 How could free/open content contribute to the development of your organisational capacities for knowledge management?

4.4.3 Would you see your project moving in the future more toward a model of selling licences or providing services?

4.4.4 How do your current licensing schemes appear to facilitate your vision for the future of your project?

4.4.5 Are there any IPR policy revisions that you may deem necessary for the accomplishment of your educational and research objectives?
Case Studies Mapping the Flows of Content, Value and Rights across the Public Sector

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