Disclaimer

This document should be considered a set of guidelines rather than a legally valid reference. Copyright laws can vary based on your local legislation and undergo changes over time. Please understand the following as an attempt at a set of best practice guidelines based on the Beyond Matter team's work on the digital model of the exhibition *Iconoclash. Beyond the Images Wars in Science, Religion, and Art*.

Introduction

Legally, an online exhibition is usually understood differently from a physical exhibition in that different types of rights are involved, situating an online exhibition closer to a print or web publication than to an offline exhibition. Whereas to assemble a physical exhibition, usually only the consent of the owners of the works and objects in question is required, publishing a reproduction of an artwork on the web requires the permission of the creator or rights holder.

For the work on the digital model of *Iconoclash* created with the generic exhibition platform, there were two types of rights to consider: The **rights of the creators** or rights holders, i.e., artists or estates, relating to the artworks themselves, as well as the **rights to photographic reproductions** to be used in the HTML layer of the exhibition platform. These images, used to further illustrate the object in question, will usually come from the artists themselves, or the owners of the works, collectors or museums. The institutions or photographers who created those assets usually hold the rights to the images or assets and need to give their consent for them to be displayed online.

Publishing Rights

For each artwork that has not entered the public domain, the rights holders will need to give their permission for the work to be reproduced and published in the form of a 3D model. In Germany, an artwork is considered to enter the public domain in the moment when its creator has been deceased for more than 70 years.

Based on this, you will need to identify all rights holders to works outside the public domain and contact the rights holders themselves or try to establish a contact via representatives such as galleries, agencies, etc. Correspondences with artists and estates who are represented by artists' associations such as the German VG Bild-Kunst (in case your online exhibition is hosted on German server) or the French ADAGP (in case it is hosted on a French server) can be combined and addressed to the associations, which will then take over the personal correspondence with the rights holders to determine if they will grant you permission to include their works in your online exhibition. Based on the time frame and number of artworks included, the associations in question will invoice you as per their tariffs, which you can access beforehand to calculate your budgets.

Relevant information to incorporate into your first contact with rights holders and associations can include: precise information on the artworks in question (author, title, year, catalogue numbers, etc.), the time frame in which your project will be available online, commercial intentions behind your project, as well as your institutional affiliations.

Rights holders may be hesitant to give permissions for online reproductions, especially for more complex or interactive installations which may prove difficult to emulate in virtual space. Some rights holders may want to receive mock-ups, renderings, or screenshots of the 3D models of their works

before granting their permission. Waiting for and incorporating feedback from the parties involved is an important step to account for while developing the time frame of your project.

From our experience, moving image artworks pose an additional challenge, since rights holders may not want their films accessible free of charge on the internet or may be concerned about piracy. The fees associated with making a moving image artwork accessible worldwide can easily exceed usual rates commonly charged for a presentation of the same film in an offline exhibition.

Please also note that as long as you have not obtained the author's or their estate's permission, you are not allowed to publish their artworks online or in any other form. Should you do so anyway, the rights holders may pursue legal action against you and be entitled to financial compensation. It should also go without saying that the permission of the artists or rights holders only extends to each specific exhibition and its duration. For subsequent projects, permissions will have to be granted anew.

Image Rights

Obtaining images of the objects which you would like to include in an online exhibition model may serve two purposes: the creation of the 3D models to be viewed within the exhibition, as well as having assets within the info layer of the generic exhibition platform to further illustrate the object in question.

Since the second aspect will involve publishing the photographic reproductions, you will need to obtain permission of the photographer or the institution holding the rights to the images. Most major museum institutions will be able to provide you with images of works from their collection, refer you to an image agency they are collaborating with, or offer to have photographs created for you. Since image agencies usually work with multiple institutions at a time, contacting them directly can simplify your communication. In most cases, especially when image agencies are involved, there will naturally be costs associated with obtaining as well as publishing their assets. For certain works, photographic reproductions may be found online or in digitized collections which can be used free of charge under creative commons licensing.

For artworks not owned by major institutions, especially in the case of contemporary artists, contacting the artists' studios, galleries, or agents may prove useful. Since you will likely have to contact the artists in order to obtain their permission to publish 3D models of their work, requesting images directly can also reduce the necessary amount of correspondence.

Most museums, collections, and image agencies will request specific conditions under which their assets are to be displayed. This may include referencing the institution and/or the photographer in the credit line of the work, integrating a hyperlink to the institution's website, or even restrictions on the dimension in which the photographic reproductions are allowed to be reproduced, i.e., a maximum size in pixels. This also extends to artists, estates, and associations, which will also want to be referenced within the credit lines of the assets displaying their works.

Please note that while museums and similar institutions can provide you with photographic reproductions of the works, they can only give you the rights to publish the assets, not the works themselves. Even if you have the photographer's permission to publish an image of an artwork, you will still need to obtain the artist's permission to do so, provided their work has not entered the public domain. However, this also inversely implies that museums or collectors may refuse to provide you with their photographic reproductions or prohibit you from making these assets public, but

strictly speaking cannot prevent you from publishing a 3D model of the work in question, as long as you have the permission of the artist or estate.

It is recommended to keep track of obtained permissions, as well as provisions and credit lines requested by artists, estates, and collections in an organized way, i.e., in a spreadsheet or database. These types of tools may also help to track the progress on each of the correspondences.

If the timeframe allows, it is recommended to obtain the permissions to publish the works as a first step to avoid unnecessary communications and paying image agency fees for works which you will not be allowed to publish because the authors have refused.

Step-by-Step Guide:

- Acquiring the permission to publish the works
  o Identifying the works outside the public domain which need to be cleared
  o Bundling communications via artists' associations where possible
  o Contacting artists, rights holders, galleries, agencies to obtain permissions
  o Possibly requesting images at the same time
  o Keeping track of permissions, credit lines and provisions
- Acquiring the permission to publish the assets
  o Identifying the works for which no reproductions are available either from artists, galleries, etc. or online under creative commons licensing
  o Bundling communications via image agencies where possible
  o Contacting museums and collectors to obtain images and permissions
  o Keeping track of permissions, credit lines, and provisions

License

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