

When I speak of becoming a global university, I envision a curriculum and a research agenda permeated by awareness that political, economic, social, and cultural phenomena in any part of the world can no longer be fully understood in isolation. The revolution in communications technology has brought the world closer together and changed the way we think about it.

The Global University
Yale President Richard C. Levin

Overview

There are three parallel activities currently underway at Yale to consider issues associated with access to digital content that is being produced from Yale's collections and by the faculty and researchers at Yale.

The Provost appointed a faculty Committee on Access to Scholarly Publications that is chaired by Dean Pollard which is currently reviewing the issues associated with open **access to scholarly publications**.

Issues associated with the **management of research data** at Yale are under review by the faculty Working Group on Mass Storage that was convened by Steve Girvin, Deputy Provost for Science and Technology.

The [ODAI Advisory Committee](#) reviewed the policy issues associated with broad-based **accessibility to digitized collections** of Yale's museums, libraries, and archives.

This document is in support of the adoption of a University-level policy for Yale's digitized museum, library, and archive collections. After several discussions and review with the Office of the Vice President and General Counsel, Derek Briggs, Amy Meyers, Jock Reynolds, Frank Turner, and Meg Bellinger developed the attached statement of *Policy on Access to Digital Images of Works in the Public Domain*. The policy was approved by the Officers in a meeting on February 10th, 2011.

The preservation, transmission, and advancement of knowledge in the digital age are promoted by the unencumbered use and reuse of digitized content for research, teaching, learning, and creative activities. The goal of digitization is to harness the power of network technology to support these core objectives of the University by enabling global access to the collections in Yale's museums, libraries and archives. Yale University can best realize this goal by making digital copies of works from the collections available for use without limitations. To this end, we propose that Yale University neither mediate access to nor restrict use of items digitized from its museums, libraries, and archives which have been made openly available through the University's electronic interfaces, and which are no longer under copyright or otherwise restricted.

Background

In discussing this policy, the committee reviewed four primary areas of concern:

1. University Mission
2. Leadership for Cultural Heritage Institutions
3. Financial Considerations
4. Currently Unenforceable Restrictions

1. University Mission

The University has made deep investments in the acquisition and stewardship of its collections in support of its mission. Without professional interpretation and description, without continuing scholarly inquiry, and without easy and direct access, the collections would become static artifacts. Likewise diminishing access to these collections in the digital world would serve only to circumscribe the quality of research, education, and creative endeavors that are the core of the University's mission. This understanding of accessibility has long governed access to the collections themselves and should govern access to them as they are represented in the global networked environment.

2. Thought Leadership at the University Level

The proposed open access to digital reproductions of public domain works from the collections is the online equivalent to the policy of open accessibility to its museums and libraries that Yale maintains. Moving digital Yale onto the same policy is an opportunity for Yale University to provide thought leadership to the cultural heritage community at large. Discussion among twenty of the largest museums at the Mellon Foundation last year made clear that they as a community are ready to embrace new policies, requiring only a leader they can point to in order to effect similar policy with their boards. In a similar vein, Cornell University Library recently issued [guidelines](#), which open access to public domain items duplicated from its collections.

3. Financial considerations

Studies show that the cost of managing intellectual property and maintaining payment structures in cultural heritage collections almost always outweighs actual revenue.¹ When transferred to the world of online digital resources, the cost of intellectual property transactions becomes even more onerous as it requires technical and legal frameworks for rights management that compromise the efficiency of the networked environment. Allowing public domain works to freely circulate is the most effective response.

Furthermore, fields such as art history are in a sense financially closed systems; most of the revenue in licensing the use of public domain works is derived from other collections and from scholars and presses. The elimination of licensing fees for public domain works would support continued scholarly publication of art monographs by organizations such as Yale University Press – an outcome desired and supported by those who provide publication subventions such as the Mellon Foundation.

The process of digitizing public domain content may not in and of itself add enough unique creative value to warrant an attempt to copyright such digital representations. Copyright enforcement and monetization may be justified, however, where analysis, interpretation or other editorial content or enhancements have been added. In such instances where the public domain material has been enhanced beyond the mere process of digitization, we recommend, when applicable, adherence to principles of non-exclusivity and deposit as articulated in the recently published [ARL Principles to Guide Vendor/Publisher Relations](#). Moreover, departments may continue to charge users for transaction costs.

4. Legal

We have consulted with the Office of the Vice-President and General Counsel which advises that without the commitment of additional resources to this end, enforcing license restrictions is often infeasible given the costs and resources such enforcement likely require. Moreover, as the legal designation “public domain” is supported by the rationale that eventually all creators and/or owners of content must relinquish their monopolies over such content making such content available for unmitigated access and use, attempts to restrict access through licensing provisions may be neither legally enforceable nor ethically prudent.

In agreement,

Derek Briggs, Amy Meyers, Jock Reynolds, Frank Turner, Meg Bellinger
September 3, 2010
Revised 17 November to include introductory paragraphs.

¹ Reproduction charging models & rights policy for digital images in American art museums
King's College London. King's Digital Consultancy Services. Simon Tanner. August 2004
<http://msc.mellon.org/research-reports/Reproduction%20charging%20models%20and%20rights%20policy.pdf/view>

The Yale University Policy on Access to Digital Images of Works in the Public Domain

General principle:

The preservation, transmission, and advancement of knowledge in the digital age are promoted by the creative use and reuse of digitized content for research, teaching, learning, and creative activities. The goal of digitization is to enhance access to the collections in Yale's museums, archives, and libraries for students, faculty, and the world. It is Yale University's goal to make digital copies of unrestricted public domain collections available for use without limitations. Yale University will not restrict use of items digitized from its **museums, libraries and archives** collections which have been made openly available through the University's electronic interfaces, and which are no longer under copyright, except where other rights or restrictions apply. Any content that requires Yale University log-in/authentication is not considered openly available.

Copyright:

Yale University fully supports the protection of intellectual property and is committed to complying with and strictly adhering to all applicable copyright law.

Privacy:

Yale University respects the right to privacy of individuals and groups and is committed to complying with and strictly adhering to all applicable legal requirements in protecting that privacy.

Donor Restriction:

Yale University is committed to strictly adhering to provisions embodied in agreements with donors of collections.

Yale Marks/Name:

The use of the Yale name or trademarks for any purpose – other than standard source citation (see Citation and Credit below) – requires the prior approval of the Yale University Licensing Program.

<http://www.yale.edu/licensing/general.html>

License:

Use of these digitized collections will be permitted under licenses such as those provided by the Creative Commons that allow for use, including reproduction, without further application, authorization, or fees. Users are asked to attribute the work in the manner specified, without suggestion of endorsement.

For more information on CCBY, see: <http://creativecommons.org/licenses/by/3.0/>

Details/shared practices:

- **Service:** There may be costs associated with fulfilling requests for new/original digitization which may be charged according to the practice of the collecting unit.
- **Distribution:** In order to make resources consistently and universally available, Yale museums, libraries, and archives may elect to allow free downloads of digital images of public domain works directly from their respective web sites. This practice does not preclude the use of other distribution channels and business models that may better serve specific groups.
- **Information on use:** Formal requests for image acquisition and use have traditionally served the additional purpose of providing a means for acquiring information about image use. Yale museums, libraries, and archives may provide an elective opportunity for those acquiring digital images to register information about themselves and their uses of images.

- **Citation and credit:** Yale museums, libraries, and archives will provide direction and models for the proper citation for the source and, when appropriate, for the credit line to be used when images are reproduced in any media. Technical mechanisms will be available to help ensure that information about the source of these freely distributed images as well as the underlying works remains associated with the images, such as recording this information in image file headers.
- **Other digitized content:** All Yale units will take appropriate measures to safeguard the intellectual property inherent in works in its collections that continue to be protected by copyright or that may have other reproduction restrictions imposed by contract, covenant, privacy issues or Yale policy.