Creative Commons drives policy change

New technologies enable

Copyright hinders

We advocate for a fair and balanced copyright system that supports the legitimate activities of GLAMs.

By Iconathon, US, in the Cultural Heritage Collection

Created by AomAm from Noun Project
We advocate for open access to cultural heritage

Digitized cultural heritage material should be held for preservation purposes but should also be made accessible online in the broadest way possible.

CC tools are the easiest and simplest means to communicate to the public what uses can be made of digital cultural heritage online.

They are the standard for GLAMs that are “opening up” their collections on the internet, helping overcome barriers erected by copyright law and enabling broad reuse.
What content can GLAMs make available?

Many types of content... let's focus on:
- Works, content and materials in the public domain

Cunard R.M.S. Mauretania, Sjöhistoriska museet, Public Domain

Motif from the High Tatras, Slovak National Gallery, Public Domain

Plaque depicting an interior with figures, Rijksmuseum, Public Domain
Digitized public domain works must remain in the public domain
Creative Commons Public Domain Tools

- the Public Domain Mark 1.0 (PDM)
- the Creative Commons Public Domain Dedication tool (CC0 1.0)

can be used by GLAMs to indicate that the cultural heritage collections they share online are in the public domain
U.K. design label, KTZ, ‘copied’ the design from an Inuit shaman’s parka considered by experts as the ‘most unique garment known to have been created in the Canadian Arctic.’  (Kieran Oudshoorn/CBC (from book Northern Voices) /Tristan Fewings/ Getty Images).
Salome Awa displays an archival image from Northern Voices showing her great grandfather Shaman Ava in his sacred caribou skin parka. (Kieran Oudshoorn/CBC)

Source:
Three Key Takeaways

1. Cultural institutions fulfill the mission of making cultural heritage accessible to the public. They play an instrumental role in preserving and allowing the public to access, use and recreate cultural heritage. They are entrusted with our collective memory — sharing that memory should be their highest priority.

2. Sometimes, that mission can conflict with the rights and interests of the holders of the cultural heritage — this is often the case for Indigenous and culturally-sensitive heritage — one big concern is that “sharing” can open the door to cultural appropriation, i.e. uses that are offensive and cause harm.

3. Cultural institutions are at a pivotal place where communities and users meet around the collections. They have an important role to play to ensure their cultural heritage is used respectfully and according to the wishes of their holders.
What is cultural appropriation?

1. Use of a (traditional) cultural expression (a legend, a dance, a song, a pattern, an embroidery, a design, a textile, a piece of jewelry...) in a different cultural context.

2. In a situation of power imbalance (the taker is from a relatively dominant culture).

3. Without any involvement of the source culture (no acknowledgement, no payment, no permission...)

4. That results in harm to the source culture (economic, social, cultural harm...).
Isabel Marant and the Mixe huipil

“the Blouse of Tlahuitoltepec is in the public domain... so anyone can freely draw inspiration.”

— Wikipedia, “Isabel Marant” (French version)

Public domain = Free to reuse?

“Public domain” is a concept used in copyright; to oversimplify, it’s what’s not protected.

Copyright does not account for the ways in which traditional cultural expressions are created, collectively held, and transmitted through the generations. It does not reflect or account for Indigenous cultural values, interests or rights.

Many forms of Indigenous heritage are not protected under copyright and thus in the public domain.

Copyright

→ Freely available for use and reuse

Cultural rights, customary law, laws on Indigenous cultural heritage, ethics...

→ Access, use or reuse may not be allowed
Cultural heritage in GLAMs torn between two ties

- an ownership tie with the institution that “owns” it
- a stewardship or custodianship tie with the community that “holds” it

How can these two ties be reconciled? Especially in the digital world?
“I think we have a lot of knowledge to share collectively, but it’s important to ensure that we’re doing it ethically.”

Grace Lilian Lee, designer and co-founder of First Nations Fashion and Design, Australia

A study of GLAM policies on Indigenous cultural heritage

In an effort to better understand how GLAMs are tackling this tension, we undertook desk-based research aimed at surveying and analyzing GLAM policies and practices dealing with the treatment of Indigenous cultural materials. After collecting a diverse range of resources from various GLAMs located in different world regions, we studied them to find common trends, best practices,
What can GLAMs do?

1. **Acknowledgment**— Recognize and affirm the interests that Indigenous peoples have in their cultural and intellectual property, existing both inside and outside conventional copyright law.

2. **Partnership**— Form authentic and meaningful relationships with source communities, understanding and taking into account customary law and protocols, and determining community needs and wishes about their cultural heritage.

3. **Guardianship**— Actively respect community decisions regarding digitization, access, and use, giving Indigenous communities full agency over how their cultural material is treated.
What can users do?

Four steps to avoid engaging in harmful practices:

1. Use with **respect** – research the culture and make sure you understand the meaning embedded in a cultural expression and do not distort that meaning.

2. Give **credit** where credit is due – acknowledge the source.

3. Use as **little** as possible and add a lot from your own imagination.

4. Ask for **permission** from the source community, engage in a genuine dialogue, enter into **collaborations** and share in mutually beneficial ways.
If you remember just one thing

We all benefit from interacting with cultures from all corners of the world.

Sometimes sourcing elements from traditional cultures and reusing them out of context can cause harm: this translates as cultural appropriation.

The alternative is to assume a positive posture towards cultural diversity, towards engaging in dialogues between cultures and to draw from a creative potential that is sustained by mutual respect and genuine intercultural connections.

The key is: respect.
Further reading and viewing

- Traditional Cultural Expressions: Laying Blocks for an International Agreement, 2018 Centre for International Governance Innovation.
- Curbing Cultural Appropriation in the Fashion Industry with Intellectual Property, WIPO Magazine, 2019
- Cultural Appropriation, Creative IP – University of the Arts London

Videos:
  - November 2020 Is Sharing Always Caring? EFHA symposium (online)
  - October 2018 Copy Camp conference – Poland
  - June 2019 CIGI event – Canada
  - One-minute clip summarizing the issue of cultural appropriation in fashion

Slides  ABC Copyright conference – Canada, June 2019
Further reading (media coverage)

- Vogue Arabia - Vogue.me Investigates: The State Of Cultural Appropriation & Why It Needs To Change
- Toronto Star - Cultural appropriation keeps happening because clear laws simply don’t exist
- Parents Magazine - A Parents Guide to Navigating Questionable Halloween Costumes
- CTV News - Tougher laws needed to police cultural appropriation in fashion, study says
- Global News - Group calls for tougher laws protecting Indigenous tradition from cultural appropriation
- National Post - Study calls for tougher laws against cultural appropriation in fashion
- Unsatisfashion and Fashion for Future
Thank you!

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