

## Intellectual Property Rights for Digital Preservation - Digital Preservation Coalition (DPC) Technology Watch Report series

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### Free-form Survey Questions for Digital Preservation Coalition Members

No. Question	Purpose of questions
<p>1. In your experience, what are the most common issues arising from copyright or other intellectual property rights (IPRs) in the area of digital preservation?</p> <p>Which of these issues do you consider to be most important, and why?</p>	<p>We are aiming to elicit what the key issues are, and how they come about. In particular we are interested in:</p> <p><u>Law</u> - Does the UK IPR regime lack clarity with respect to particular DP activities - what are the important 'grey areas'? Are aspects of the current IPR regime simply inimical to DP - what are they, and how do they impact on DP? Does UK law lack particular exceptions or permissions that would be valuable for DP – are such exceptions or permissions available in other jurisdictions?</p> <p><u>Administration</u> – What are the key administrative problems arising from IPRs facing those engaged in DP work? Identifying and contacting rightholders? Obtaining appropriate permissions and licences? Developing and maintaining 'rights registers'? Ensuring that IPR metadata is collected and stored?</p> <p><u>Understanding</u> – What are the common misunderstandings or mistakes made in relation to IPRs? What are their causes and impacts? What issues cause most problems for those engaged in DP work? What issues cause most problems for rightholders, depositors, and users?</p> <p><u>Technical</u> – Are certain DP techniques particularly problematic from an IPR perspective, e.g. emulation of software, or format shifting? Do the controls permitted by the IPR regime, including restrictive licensing (e.g. limits on resale or reuse of licensed software) and DRM significantly obstruct DP efforts?</p>
<p>2. Can you provide examples where digital preservation work was significantly hampered, or prevented, by IPR issues?</p> <p>In your opinion, could such problems have been avoided, and if so, how?</p>	<p>Following from the first question, we are seeking particular examples of IPR problems to provide background to, and to illustrate, the discussion of IPR issues. In this question and the next question we are seeking to draw upon community expertise for work-arounds or solutions to IPR problems, as well as looking for evidence of particularly intractable problems.</p> <p>It is clear that there are measures that organisations and projects dealing with DP can take to avoid difficulty with IPRs, there has been considerable work carried out with regard to ensuring the effective acquisition, preservation and reuse of both content and hardware/software by archives and repositories. It will be useful to obtain the perspective of those working in the field on how effective this work has been at improving the interface between DP and IPRs.</p>
<p>3. Can you provide examples of good practice or innovation in digital preservation work which helped avoid or reduce difficulties caused by IPRs?</p>	

<p>4. Accession questions for archives and repositories:</p> <ul style="list-style-type: none"> <li>a) Do you treat the deposit of non-digital and digital materials differently as regards IPR in your deposit agreements?</li> <li>b) Do you require a licence, or an assignment of copyright, from a depositor of digital works?</li> <li>c) Have third party IPRs in content been a problem when seeking to accession, to preserve, or to make available, deposited digital materials?</li> <li>d) Have third party software licences been a problem when seeking to accession, to preserve, or to make available, digital materials?</li> <li>e) Have you emulated software in order to preserve or make available digital materials (e.g. abandoned works or 'orphanware')? Has this caused legal problems?</li> <li>f) Have you been unable to accession, to preserve, or to make available, digital materials because of DRM/TPM?</li> <li>g) Have you circumvented DRM/TPM or negotiated an agreement with a rightholder to remove DRM/TPM for the purposes of accession, preservation or user access?</li> </ul>	<p>These questions are similar to those asked in the <i>Digital Lives</i> project, but are focused on copyright. Smaller archives and repositories often had relatively <i>ad hoc</i> accession policies and practices, and it appeared that some were not really equipped to deal with IPR issues in terms of basic knowledge, administrative framework, or depositor/user interactions.</p>
<p>5. Use questions for archives and repositories:</p> <ul style="list-style-type: none"> <li>a) Do you treat non-digital and digital materials differently as regards user access because of IPRs?</li> <li>b) What IPR-related conditions do you impose on user access to digital works?</li> <li>c) Are those conditions practical (i.e. capable of meaningful enforcement) in the digital environment?</li> </ul>	

<p><b>6.</b> If you were writing a short guide to IPRs for others in the DP field:</p> <ul style="list-style-type: none"> <li>a) What content would you consider essential to cover?</li> <li>b) What content would you likely omit?</li> <li>c) What content would you be most confident discussing?</li> <li>d) What content would you be least confident discussing?</li> </ul>	<p>Given the relative brevity of the report commissioned it will be useful to have a clear view of what those engaged in DP consider to be the most important issues to address, both in terms of issues which those questioned consider to be vital to understand in order to be able to operate effectively, and those areas where it would be useful to bring greater clarity. It is also useful to draw on community knowledge in terms of the material already available – this will help us avoid unnecessarily duplicating existing work, but also allow us to refer to it, if and as appropriate.</p>
<p><b>7.</b> If you were asked to recommend existing materials on IPRs relating to DP:</p> <ul style="list-style-type: none"> <li>a) Would you have an immediate ‘go-to’ source or sources?</li> <li>b) If you would, what makes it/them a ‘go-to’ source?</li> </ul>	
<p><b>8.</b> Do you know of any recent national or international case studies involving IPRs in digital preservation contexts, or projects working on standards or technologies to assist in the handling of IPR/copyright issues in digital preservation?</p>	<p>Brief case studies/use cases are going to be an important mechanism for examining and discussing the developing IPR/DP interface. The more information (or leads) we can get on this the better.</p>