

Renaissance Yorkshire Advice Sheet 3: Exploiting the Museum's IPR and Cultural Assets for Financial Benefit

What is this advice sheet about?

This advice sheet is about exploiting a museum's assets – both physical and intangible – for **financial gain**. Along with covering the more obvious things like venue hire and image licensing, it aims to make staff, trustees and volunteers aware of the perhaps hidden / unseen / previously unregarded assets that might be exploited during harsher financial times.

Who is it for?

It is for anyone who has responsibility for managing or caring for the museum and its collections. This includes trustees, all museum staff and volunteers. Potentially it affects any department whose holdings, collection, creations, services or expertise have value. **Remember that 'value' has many interpretations, not just financial!**

Why is it useful?

Museums are under more pressure than ever, not only to make their collections and services more accessible, but also to generate income. Sometimes this is simply to help towards running costs, but the slant is increasingly towards generating a surplus.

Sometimes **financial potential can be found in the most unexpected areas**. For example, the Coal Authority invested huge sums in state-of-the-art scanning equipment for digitizing large-format mining plans. They realized that other organisations might want to digitize similarly huge documents – so they now make this service available commercially. See <http://www.coal.gov.uk/services/scanning/>.

What do I do first?

Consider all the different areas for potential exploitation. Remember, you could always do a like-for-like swap of facilities, or pool resources to save money (this advice

sheet is as much about saving money as making it). It might be helpful to use the following headings to guide you in your brainstorm:

1. Facilities

Do you have facilities that you might make available or use for commercial clients?

For example:

- Do you have photographic or other specialist equipment such as x-ray machines or conservation studios that could be potentially hired out to other organisations?
- Can you provide catering facilities or other facilities to the local community, such as schools, the church etc?
- Are there conference or meetings rooms within your venue that could be hired out on a commercial basis?
- Try to imagine a venue's potential not only, for example, as another meeting space but also, perhaps as a filming location.
- Are there attractive or unusual areas within the museum or its grounds that could be used for weddings, civil partnership ceremonies or corporate functions?
- Can you offer specific tours of your museum?

2. Expertise and 'know-how'

Whilst balancing any ethical/confidential issues and remaining compliant with any professional codes of conduct:

- Could expertise or specialist 'know-how' within the museum be made available on a commercial basis?
- Can you run charged for workshops and/or seminars to the general public on specific themes?
- Could you offer consultancy services to private collectors or commercial organisations?
- Has a member of staff designed or invented something specifically for the museum that has potential application in the wider world?
- Can you offer special access to collections areas e.g. behind the scenes tours or specialist tours with subject specialist curators?

3. Confidential information and databases

Acting strictly within the confines of the Data Protection Act of course, could data you have carefully gathered hold potential value for others? For example, could you charge fees to forward enquiries to your private contact list, or are there possible commercial uses for residual research carried out as part of another project? Could information or data be re-purposed for commercial gain? Do you have valuable contacts or leads?

4. Your location

Filming requests can present a good commercial opportunity and publicity for museums, with their unique settings, vantage points, historical associations and specialized collections. It is useful to be able to maximize these opportunities when they arise.

5. Your collection

We are all encouraged to make our collections available to the widest possible public. Generally speaking, our collections are accessed via our own museums and other public bodies we might choose to lend to. Depending on the policy of your museum and professional/ethical standards and restrictions (such as MLA Accreditation) could individual objects or parts of the collection be lent or hired on a commercial basis? As an example, some railway museums hire vehicles for use to operate any other heritage railways. Ensure that any such arrangements comply with the museum's loans policy and its duty of care for the collections. This could potentially apply to works in storage or obscure but interesting items from the collection that may not have seen the light of day for a few years.

Depending on a work's copyright status, could authorised copies be made, say of a photograph, painting or print for potential loan or hire or sale to different organizations?

Significant caution should be exerted in using any of a museum's collections as theatrical props and many museums specifically exclude wearing costume collection objects for ethical and conservation reasons. However, fees might be charged for special access to collections and museum expertise for the production of replica items for commercial use or sale.

6. Friends / membership / supporters / associates / sponsorship

Does your museum have a supporters' scheme? Allowing friends or members access to paying exhibitions, behind-the-scenes tours, special late night or other events, a small discount on shop items etc in return for ongoing financial support can have bring great benefits to all parties.

Consider having a tiered membership scheme, where greater benefits are given in exchange for more generous support. In addition to traditional sponsorship models, consider a 'London Zoo' type scheme, where parts of the collection or areas within the museum are 'adopted' by a supporter for a given time. Such schemes make supporters feel intimately involved with the museum, and can lead to further advocacy. This is a complex area and more information about this can be sought from Arts and Business (<http://artsandbusiness.org.uk/>).

Intellectual property

Museums are vast repositories of all kinds of intangible assets known as intellectual property ('IP'). IP enjoys its own protection under the law, and as such can be exploited for commercial gain. Museums not only act as custodians of other people's IP (and can even think about acting as 'agents' in this kind of situation) but also generate huge amounts of new material. Think about potential areas for exploitation:

Copyright – could you make content available commercially? How about the museum's images, research, captions, publications, archive? If you hold works whose copyright belongs to a third party, could you act as their licensing agent, e.g. making their works available to publishers and other audiences on a 50/50 basis? Consider whether you can exploit rights enjoyed by museum databases or publications. Have you considered the impact of the Public Sector Information Regulations on your charging? More about these provisions can be found here:

<http://www.nationalarchives.gov.uk/information-management/re-using-public-sector-information/>

Designs – could the design or 'look' of an exhibition or display within your museum potentially be sold for other purposes? It usually costs a great deal of money to put an exhibition together – why not explore the potential of 'selling' or 'hiring' the exhibition out to potential partners around the country or further afield?

Trade marks – it's often said that an organisation's name, brand or logo is its most valuable asset. The National Museum of Science and Industry, the V&A and Tate, amongst many others, have created their own extraordinary brand value through careful choice of content from their collections and confident market positioning. Consider licensing partnerships with reputable commercial companies, whose use of the museum brand may be of benefit to both parties. Can you create specific branded products, perhaps considering merchandise that might relate to your collection works?

If you are considering licensing, you may wish to consider this step by step approach:

1. Carry out an IP Audit – what rights do you own and which ones can be exploited?
 2. Consider bringing in a licensing agent to help you understand the potential of your assets and introduce you to potential commercial partners
 3. Develop your brand so that it reflects the core values of your organization/works associated with your museum etc. If you are bringing in a third party to design a brand for you, make sure that you get them to assign you any copyright and associated rights in writing BEFORE they start work
 4. Consider the costs associated with registration of your brand as a trade mark
 5. Once you have been introduced to potential commercial partners, Develop a fee structure in association with your brand. There are a number of options, such as advance fees, flat fees, royalty payments etc. The Association of Cultural Enterprise (ACE) which is a trade organization will be able to provide you with any further advice about this <http://www.acenterprises.org.uk/>
7. Checklist:
1. Check that your museum has a governance structure to fully facilitate commercial activities. For example, if your museum is an unincorporated body it will not have the necessary legal status to enter into legal agreements. You can seek further advice from the Charity Commission <http://www.charity-commission.gov.uk/>. Similarly, if your museum is local authority funded, you should discuss your plans with them.
 2. Make sure you comply with the PSI Regulations More about these provisions can be found here: <http://www.nationalarchives.gov.uk/information-management/re-using-public-sector-information/>
 3. Put together a list of ideas with the greatest potential.
 4. Share this with interested parties, as well as museum colleagues, in the hope that some of them can be pushed forward for real return.
 5. Develop a clear business plan outlining the costs and benefits of any ideas that you wish to drive forward, timescales, resources and possible pricing models. Don't forget that you may be required to charge VAT and there may be other tax issues you will need to consider. Contact HMRC for further information <http://www.hmrc.gov.uk/vat/index.htm>
 6. Ensure colleagues are in the position of being able to respond in a quick and professional way.
8. Further resources

Please refer to the other Advice Sheets in the series as well as the following templates:

- Filming Contract Template;

- Fee Charging Sheet for Images and Filming and Licence;
- Terms and Conditions for Image Licensing.

9. Final point to remember

Museums' assets are many and wide. Remember that there is the physical as well as the intangible and both can be put to some very imaginative uses, in many different ways!

Helpful resources

- **Naomi Korn Associates resources** – A collection of free and openly licensed copyright, licensing and data protection help resources.
www.naomikorn.com/resources
- **Intellectual Property Office (IPO)** – Intellectual property rights resources, information and updates on UK legislation. www.gov.uk/government/organisations/intellectual-property-office
- **Heritage Digital guide: Working with volunteers: Copyright considerations** – A guide providing information on best copyright practices when it comes to managing or supervising volunteers. This resource includes an editable template Deed of Copyright Assignment that you can use with your own volunteers. www.charitydigital.org.uk/resources/digital-guide-working-with-volunteers-copyright-consideration
- **Heritage Digital guide: Heritage Organisations and Exceptions to Copyright** – A guide providing an essential overview of the various UK copyright exceptions that can be used by heritage organisations to support their digital strategies. www.charitydigital.org.uk/resources/resources/digital-guide-heritage-organisations-and-exceptions-to-copyright
- **Heritage Digital guide: A Guide to Copyright and Working with Suppliers to Create Digital Content** - Best practice steps and guidance to help heritage organisations manage copyright effectively when working with suppliers (for example freelancers, web developers, photographers or commissioned artists). www.charitydigital.org.uk/resources/resources/digital-guide-working-with-suppliers-to-create-digital-content
- **Heritage Digital guide: Brexit, Intellectual Property Rights and Heritage: What you Need to Know** - Information and guidance for heritage organisations about IP changes following the UK's departure from the EU. www.charitydigital.org.uk/resources/resources/digital-guide-brexit-intellectual-property-rights-and-heritage

- **Copyright User** - A website providing guidance and resources about using copyright resources www.copyrightuser.org
- **Creative Commons** – Details about the different types of CC licences and sources of CC licenced content. www.creativecommons.org
- **Publication: Information Law: Compliance for librarians, information professionals and knowledge managers, by Charles Oppenheim, Adrienne Muir and Naomi Korn** – A book presenting the tried and tested ‘Compliance Methodology’ for organisations seeking to navigate the complex legal landscape of the information professions.
www.facetpublishing.co.uk/page/detail/?k=9781783303663*

© Naomi Korn and York Museums Trust, 2021. Some Rights Reserved. This resource is licensed under a Creative Commons Attribution Non Commercial Share Alike Licence

This resource was originally developed by Naomi Korn Associates as part of the Renaissance Yorkshire project *Effective Management of Intellectual Property Rights (IPR) and Cultural Assets in Museums*. It is also based on existing resources created by Naomi Korn. To the best of the authors' knowledge all information supplied within this resource is accurate at the date at which the resource was written. The authors accept no liability for any consequences arising from the misuse or misinterpretation of any of this information. None of the information contained within this report should be construed as legal guidance or legal advice. In the event that such advice is required, legal counsel – preferably the advice of a specialist intellectual property rights lawyer – should always be sought