

ORPHAN WORKS SURVEY 2017 SUMMARY REPORT



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DEFINITIONS

Beneficiary Organisations — publicly accessible libraries, educational establishments and museums, as well as archives, film or audio heritage institutions and public-service broadcasting organisations established in EU Member States and European Economic Area (EEA) countries.

Competent National Authorities — institutions in EU Member States and European Economic Area (EEA) countries responsible for forwarding information about orphan works to the Orphan Works Database.

Extended Collective Licensing — the licence (authorisation for use), granted by a collective rights management organisation on behalf of its members, which is extended by law to cover also all non-member rights holders of the same category.

Orphan Works system — system created through implementation into the national legislation of the Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works.

Other Stakeholders — associations or entities representing the interests of rights holders, cultural organisations, collective management societies, civil society, as well as individual respondents.

GLOSSARY OF STANDARDS

BIBFRAME (Bibliographic Framework Initiative): bibliographic description, both on the web and in the broader networked world that is grounded in linked data techniques.

Dublin Core: a set of vocabulary terms that can be used to describe web resources (video, images, web pages, etc.), as well as physical resources such as books or CDs, and objects like artworks.

EAD (Encoded Archival Description): standard for the encoding of finding aids for archival and manuscript repositories.

EDM (Europeana Data Model): data model for cultural heritage objects of library, museum, archive and audiovisual sectors.

EN15744: metadata set for basic identification of cinematographic works.

EN15907: metadata set for the comprehensive description of cinematographic works including the various incarnations it can assume during its lifecycle.

ESE (Europeana Semantic Elements): a subset of EDM. ESE is the former version of EDM.

FORWARD: a MARC-based technical solution for audiovisual works.

ISAD (International Standard Archival Description): defines the elements that should be included in an archival finding aid. Approved by the International Council on Archives as a standard to register archival documents.

Linked data: method of publishing structured data so that it can be interlinked and become more useful through semantic queries.

MARC (Machine-Readable Cataloguing): standard for the representation and communication of bibliographic and related information in machine-readable form.

METS (Metadata Encoding and Transmission Standard): a standard for encoding descriptive, administrative, and structural metadata regarding objects within a digital library, expressed using XML schema.

MODS (Metadata Object Description Schema): a schema for a bibliographic element set that may be used for a variety of purposes, and particularly for library applications.

OAI (Open Archive Initiative): technical interoperability standard for archives and digital libraries to share catalogue information.

PREMIS (Preservation Metadata): international standard for metadata to support the preservation of digital objects and ensure their long-term usability.

SOCH (Swedish Open Cultural Heritage): service used to search and retrieve data from any organisation holding information or media relating to Swedish cultural heritage.

Spectrum: the UK museum documentation standard for documenting objects and collections management.

EXECUTIVE SUMMARY

In total 120 institutions and individuals contributed to the Orphan Works Survey 2017, with input received from 26 countries (25 EU Member States and 1 EEA country). The results show that users are largely satisfied with the overall experience of using the Orphan Works Database. Technical and legal challenges exist mainly in the area of diligent search requirements which are perceived as too complex and as rendering the system unsuitable for mass digitisation. A lack of human and financial resources is a challenge for Beneficiary Organisations in the digitisation process. Significant disparity exists in the standards for data retention and transfer being used by Beneficiary Organisations. Competent National Authorities appear to be aware of the challenges faced by Beneficiary Organisations using the Orphan Works system. The concept of digitisation of orphan works from the Beneficiary Organisations and Competent National Authorities perspective is sound and has a future, albeit with some legal and technical adjustments. Some Other Stakeholders see Orphan Works as not having achieved its aims conceptually. In general, stakeholders give high importance to the ongoing developments of the Orphan Works system and its future success.

1.1 INTRODUCTION

Copyright, understood as authors' rights in most of continental Europe, grants a bundle of rights to authors of original works. Thanks to copyright, authors can control how others use their works, and receive remuneration from those uses.

For copyright to be effective the author or rights holder must be known; this is especially important because rights are often protected in the EU long after the original author's death, with remuneration interests frequently passing to family members. Furthermore, if the author or rights holder of a given work is not known or cannot be located, issues arise around if and how the work can be used by third parties.

Creative works, such as books, newspaper and magazine articles and films, that remain protected under copyright law but whose authors or rights holders are not known or cannot be located, are called orphan works.

Orphan works form a large part of the collections currently held by European libraries, museums, archives, film and audio heritage institutions, and public service broadcasting organisations. The lack of data on their ownership has often constituted an obstacle to their digitisation and to making them available online.

In this regard, Directive 2012/28/EU on certain permitted uses of orphan works¹ was adopted to permit certain uses of orphan works in the EU, under a series of harmonised rules. Under Article 3(6) of Directive 2012/28/EU, the European Union Intellectual Property Office (EUIPO) was made responsible for the establishment and management of a single publicly accessible online database on orphan works.

The Orphan Works Database provides information on works contained in the collections of publicly accessible libraries, educational establishments and museums, as well as archives, film or audio heritage institutions and public-service broadcasting organisations established in EU Member States and European Economic Area (EEA) countries.

The database enables beneficiary organisations — such as those mentioned above — that want to make use of orphan works in digitisation projects to have easy access to relevant information about them. These organisations have to record works in the database that they have identified as orphan during diligent searches.

Information received from Beneficiary Organisations is forwarded to the EUIPO by the Competent National Authority designated in each Member State, e.g. Ministry of Culture or National Intellectual Property Office. Furthermore, the database allows rights holders to search for orphan works, obtain the contact information of the Beneficiary Organisations using them, and, if they find works classified as orphan of which they are the rights holder, put an end to their orphan work status. It also provides Beneficiary Organisations and Competent National Authorities with reports and statistical data on orphan works that have been recorded in the database.

The Orphan Works Database has been in operation since October 2014. Since the database went live, the EUIPO has been working actively, in cooperation with the Competent National Authorities, key Beneficiary Organisations, other relevant stakeholders and the European Commission, on the promotion and development of the tool.

¹ Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works, OJ L 299/5, 27.10.2012. At the time of adoption of the Directive, EUIPO was referred to under its former name 'Office for Harmonization in the Internal Market (Trade Marks and Designs)' (OHIM).

The aim is to enhance the database for it to become the central European repository of information related to orphan works by offering high quality services to users, increasing the usage of the database as well as increasing the number and, as far as possible, the variety of orphan works recorded in it.

The activities implemented in this respect include the promotion of the database through a stakeholder network composed of the Competent National Authorities, key Beneficiary Organisations, the European Commission and other stakeholders, the development of data extraction tool(s) and the improvement of the database with new releases.

In this context, the EUIPO developed and circulated the Orphan Works Survey 2017. The online survey aimed at gathering information on the use of the Orphan Works Database, as well as identifying what measures could be taken to ensure that the benefits of the orphan works system are fully realised.

The results of the survey have provided useful information both on what is working well, but also, on what could be improved.

This document details the results of the survey.

1.2 METHODOLOGY

The online survey consisted of specific sets of questions for various types of stakeholders. These included the Beneficiary Organisations, Competent National Authorities, and other stakeholders, such as institutions or individuals with an interest in the Orphan Works system.

The questions in the survey were grouped into the following main categories (depending on the type of respondent): i) questions related to the identification of respondent and country concerned; ii) questions related to the use of the Database; iii) questions related to Beneficiary Organisations, digitisation projects, data storage and upload; iv) questions related to the practical functioning of the Orphan Works system (including legal requirements). The complete list of questions is available as appendix to this report.

The information about the survey was circulated to the Competent National Authorities in EU Member States and EEA countries as main contact points at national level. Competent National Authorities were encouraged to disseminate information about the survey to national stakeholders (including individual creators). Furthermore, information about the survey was disseminated to the Beneficiary Organisations (registered as users of the Database) and to selected Observatory stakeholders (i.e. those involved in the area of copyright). Information about the survey was also published on the [EUIPO website](#) and in the news section of the European Observatory on Infringements of IP Rights.

At the beginning of the survey, participants were asked to select which type of stakeholder they represented. Participants belonging to more than one stakeholder group were able to provide multiple answers to the survey.

The survey contained both multiple-choice and open questions. Answers could be provided in any of the official EU languages. Depending on the type of stakeholder group they belonged to, participants were asked to respond to between 8 and 20 questions.

The survey was launched on 18 April 2017. The final deadline to provide replies was 23 June 2017.

1.3 OVERVIEW OF RESPONDENTS

In total 120 institutions and individuals contributed to the survey, with input received from 26 countries (25 EU Member States and 1 EEA country).

The majority of respondents were Beneficiary Organisations 57 % (69) from 20 EU Member States and 1 EEA country, followed by the 'Other' category 24 % (29) and the Competent National Authorities, who were responsible for 19 % (22) of the submissions (see Figure 1).

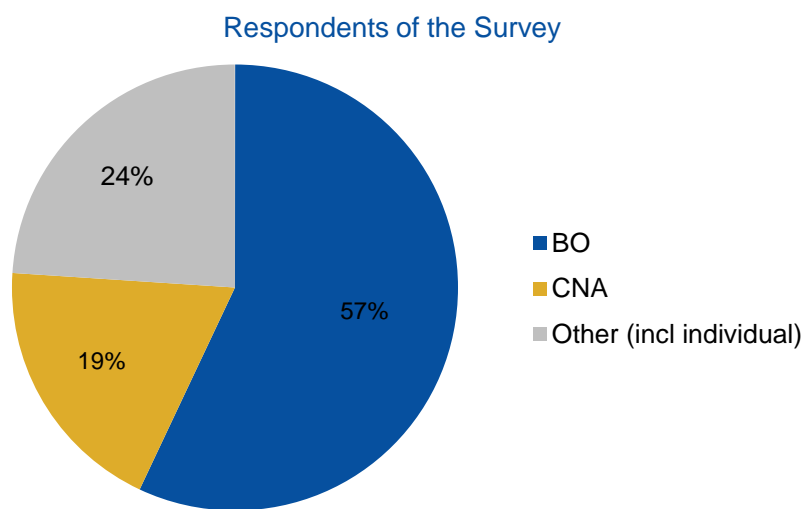


Figure 1

Of the Beneficiary Organisations that responded, the majority were public libraries 47 % (32), but a significant amount of archives 25 % (17) and museums 12 % (8) also contributed. Furthermore film or audio heritage institutions represented 10 % (7) of the responses and educational establishments 3 % (2) (see Figure 2).

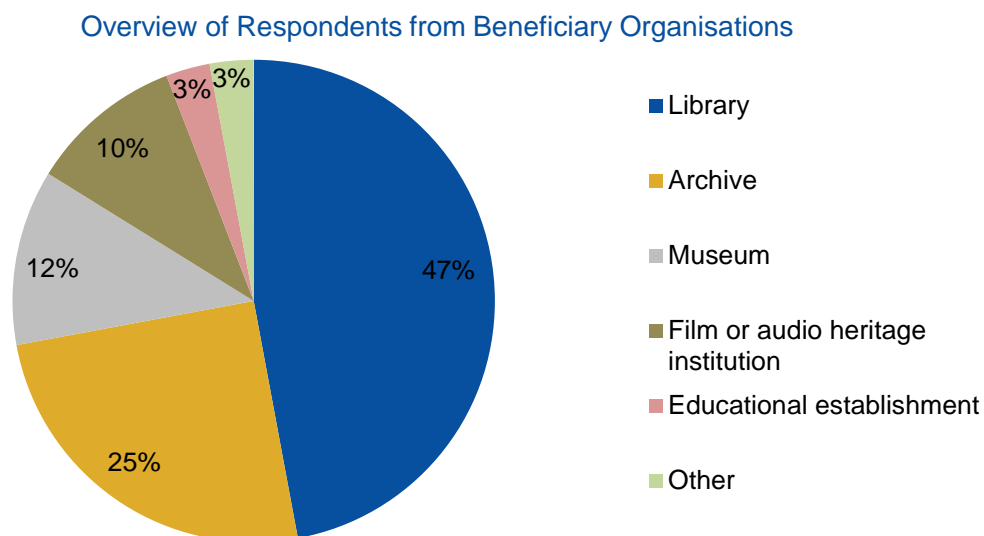


Figure 2

Competent National Authorities for the Orphan Works Database or (and) the Directive 2012/28/EU from 22 Member States completed the questionnaire².

As far as other stakeholders are concerned, 29 replies were submitted from stakeholders in 13 Member States. Replies were provided by associations or entities representing the interests of rights holders, cultural organisations, collective management societies, civil society, as well as individual respondents.

² Two (2) replies were disregarded from the Competent National Authority section, one of them being from a Beneficiary Organisation which is not a Competent National Authority and the other one coming from a fake respondent.

1.4 REPLIES FROM BENEFICIARY ORGANISATIONS

Beneficiary Organisations were asked to respond to 25 individual questions relating to the general use of the Orphan Works Database, digitisation projects, data storage and uploading and to the practical functioning of the Orphan Works system (including legal requirements).

1.4.1 USE OF THE ORPHAN WORKS DATABASE

When questioned as to whether they were existing users of the Orphan Works Database, nearly half of the Beneficiary Organisations 48 % (33) responded that they were, showing significant take up of the project at Beneficiary Organisation level since its inception (see Figure 3).

Is your organisation registered as a user of the Orphan Works Database?



Figure 3

Perhaps more significantly however, of the 36 institutions that were not currently registered, well over half 56 % (20) of the libraries, archives, educational institutions and other entities currently holding orphan works expressed clear interest in the database and in becoming registered users (see Figure 4).

Would your organisation be interested in becoming a registered user of the Orphan Works Database?

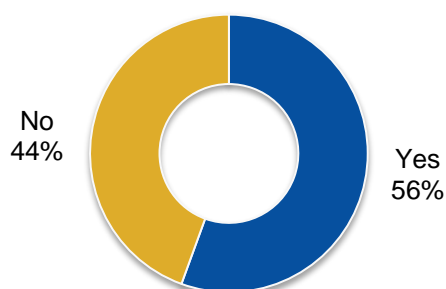


Figure 4

Of the remaining 44 % (16) of organisations that did not express a current interest in joining the database community, few left comments. However, of those that did, the need to seek authorisation from hierarchy was an issue for one respondent and concern as to the time implications of identifying the works in the first place was a challenge for another.

Of the 33 entities that responded that they were already registered users of the orphan works database, a significant majority 73 % (24) claimed that their organisations had already provided records to the project (see Figure 5).

Notably, nearly all, 87 % (21 out of 24), expressed that they were satisfied with their experience in using the database. Of those that weren't, one institution claimed that it was difficult to find their records in the database once they had been introduced. Another institution suggested that the requirements for a diligent search were overly detailed. Yet another institution argued that there was a lack of instructions on how to fill in certain fields in the database.

Has your organisation provided records to the Orphan Works Database?

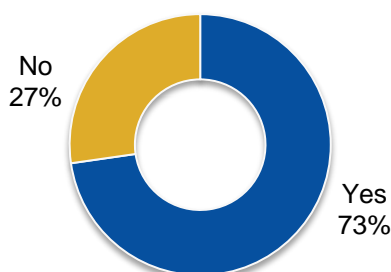


Figure 5

Subsequently in this section of the questionnaire, entities that stated not to have contributed records to the database were asked to indicate why their organisation had not provided any records. The majority of answers focused on the financial and human resources that such work would require, whilst others simply stated that they 'had not been asked to'. Furthermore, specific issues surrounding the diligent search requirements were raised.

COMMENT BOX

"Diligent search is a time and resources consuming process. Copyright in the audiovisual area is complex. One of the main points of the OWD is allowing the digitisation of heritage and putting it online for the public, and at this point we are focusing our main efforts in implementing proper digitisation facilities and workflows, which are also particularly complex and expensive in the film heritage area."

At the end of the questions related to the use of the Orphan Works Database, contributors were asked if they had any suggestions for improvements to the database. This question generated a number of responses, the most pertinent of which were suggestions as to the potential for enhanced automated data exchange, the use of more standard identifiers, the need to display information more concisely, and improvements that would make the bulk upload spreadsheet more user intuitive.

1.4.2 DIGITISATION PROJECTS, DATA STORAGE AND UPLOAD

Questions for Beneficiary Organisations related to digitisation projects, data storage and uploading began with an enquiry as to whether the organisation was planning to provide records to the Orphan Works Database over the next 12 months.

Whilst 33 % (23) expressed that they were not planning to provide records to the database over the next 12 months, and 42 % (29) that no information on this topic was available, 25 % (17) were able to answer this question positively, indicating that the database will grow as a result of contributions made by Beneficiary Organisations in the future (see Figure 6).

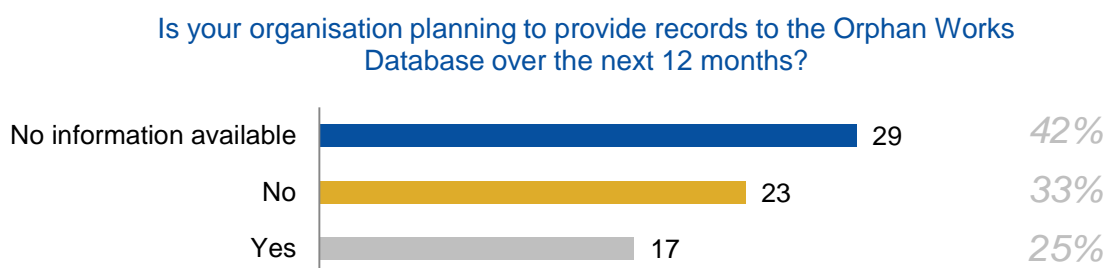


Figure 6

When asked for details of an on-going or planned digitisation project, Beneficiary Organisations were requested to provide more information about the project indicating organisations involved, timelines for implementation and the approximate number of works to be digitised as orphans.

COMMENT BOX

"We have several ongoing digitization programs, however using the orphan works exceptions is a last resort, only used when all clearance avenues have been explored and only at the end of the project with sign off from the project board, as such I can't provide timings or numbers until the projects reach completion."

This question generated responses from Beneficiary Organisations in a number of Member States, including one institution which stated that it was trying to renegotiate licenses for scientific films. The respondent explained that when they cannot identify and contact rights holders, they try to provide at least online access to the films via the Orphan Works Directive. This, claimed the institution, is an ongoing process which started in the autumn of 2012 and will take a number of years. Another Beneficiary Organisation claimed to be digitising resources continually, and for special projects, to be registering orphan works, but they could not estimate the number of works that are orphan. A number of other responses also indicated that individual digitisation projects were either in place, or planned.

Interestingly, when asked whether their institutions used any standard for the storage and exchange of works, such as machine readable cataloguing (MARC), 43 % (29) of Beneficiary Organisations stated that they did not (see Figure 7).

Does your organisation use a standard for storing or exchanging the data (e.g. MARC)?



Figure 7

Of the institutions that did claim to be using a viable standard, chosen applications were varied, with MARC proving the most popular, closely followed by the Dublin Core system. In total, 22 different systems for the storage and exchange of data were listed by the Beneficiary Organisation respondents (see Figure 8). For description of each standard, please see GLOSSARY OF STANDARDS on page 6.

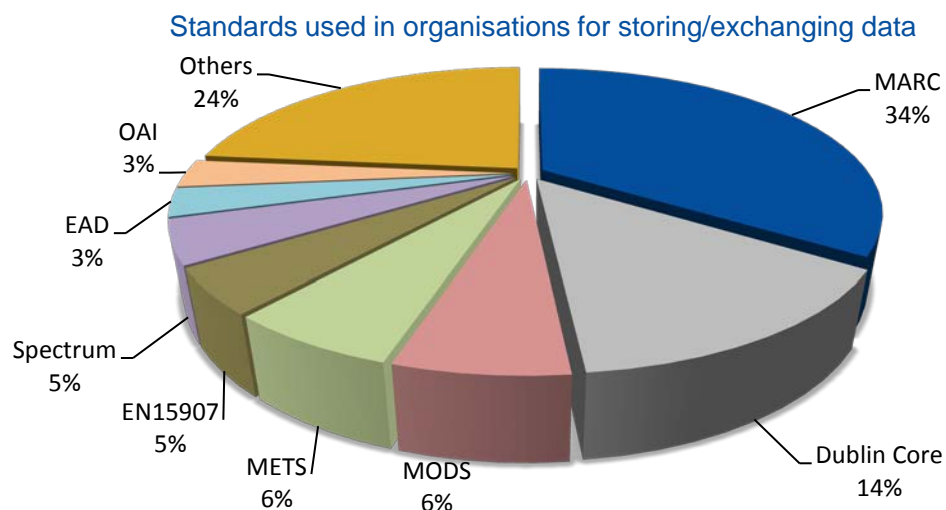


Figure 8

When asked if their organisations would be interested in using a data extraction tool supporting the MARC standard, contributors were divided, with a roughly equal split in opinion (see Figure 9). 42 % (29 out of 40) of respondents expressed their interest in the currently available data extraction tool supporting this standard.

Would your organisation be interested in using data extraction tool supporting MARC standard?



Figure 9

This statistic was also reflected in the answers to the question ‘would your organisation be interested in using data extraction tools supporting other specific standards?’, in this case 41 % (28) responded that they would and 59 % (41) that they would not (see Figure 10).

Would your organisation be interested in using data extraction tools supporting other specific standard(s)?

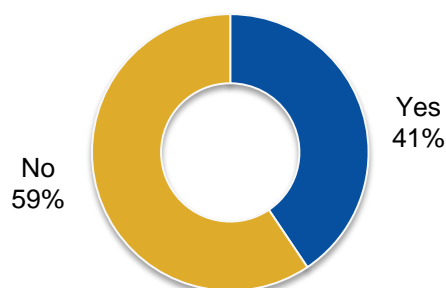


Figure 10

When the 41 % (21) who did express an interest in the above were questioned as to which standard they would like to use for supporting data extraction, answers were again varied, with 15 alternatives being suggested (see Table 1). For a description of standards, please see GLOSSARY OF STANDARDS on page 6.

STANDARD	#
Dublin Core	5
EN15907	3
MARC	3
MODS	3
METS	1
BIBFRAME	1
EAD	1
EDM	1
EN15744	1
FORWARD	1
ISAD	1
Linked data	1
PREMIS	1
Spectrum	1
ESE	1

Table 1 - Standards of interest for storing or exchanging data

Attitudes to implementing system-to-system integration were also relatively evenly divided among the Beneficiary Organisations polled, with those answering positively stating that they had a system in place and would consider a proposition for integration with the Orphan Works Database feasible if the technical burden was light. Negative responses, 58 % (40), were occasioned by concerns that the efforts necessary for a system-to-system integration would probably not counterbalance the benefits of making a relatively small number of orphan works available. Some respondents pointed out that the Orphan Works Database could be used without system-to-system integration (see Figure 11).

Would your organisation be interested in implementing system-to-system integration?



Figure 11

When quizzed as to whether any other technical assistance was required for providing data to the Orphan Works Database, Beneficiary Organisations were far more united, with 83 % (57 out of 69) stating that technical assistance was not required. Of those 17 % (12) that did require technical assistance, one organisation stated that they would like to create a possibility to have numerous registered users from one organisation and another expressed a wish for more support documentation, case studies and conference participation (see Figure 12).

Please indicate if any other technical assistance is required for providing data to the Orphan Works Database.

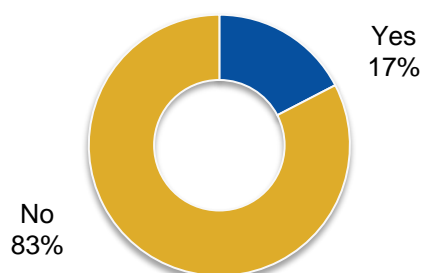


Figure 12

At the end of the questions related to digitisation projects, data storage and uploading, Beneficiary Organisations were asked to estimate the number of records that their organisation would be able to provide to the Orphan Works Database with the help of technical assistance from the EUIPO. Nearly all institutions that responded to this question replied that the number was currently unknown, with the exception of one, which suggested that 100 works would be a reasonable expectation.

1.4.3 PRACTICAL FUNCTIONING OF THE ORPHAN WORKS SYSTEM (INCLUDING LEGAL REQUIREMENTS)

The third section of the Beneficiary Organisation questionnaire comprised queries relating to the practical functioning of the Orphan Works system (including legal requirements).

When asked how satisfied they were with the practical functioning of the Orphan Works system, the majority 81 % (56) either expressed satisfaction or at least no dissatisfaction: 3 % (2) were very satisfied, 23 % (16) suitably so and 55 % (38) neither satisfied nor dissatisfied. However, 19 % (13) of respondents expressed some form of discontent with the current system: 12 % (8) dissatisfied and 7 % (5) very dissatisfied (see Figure 13).

How satisfied are you with the practical functioning of the Orphan Works system?

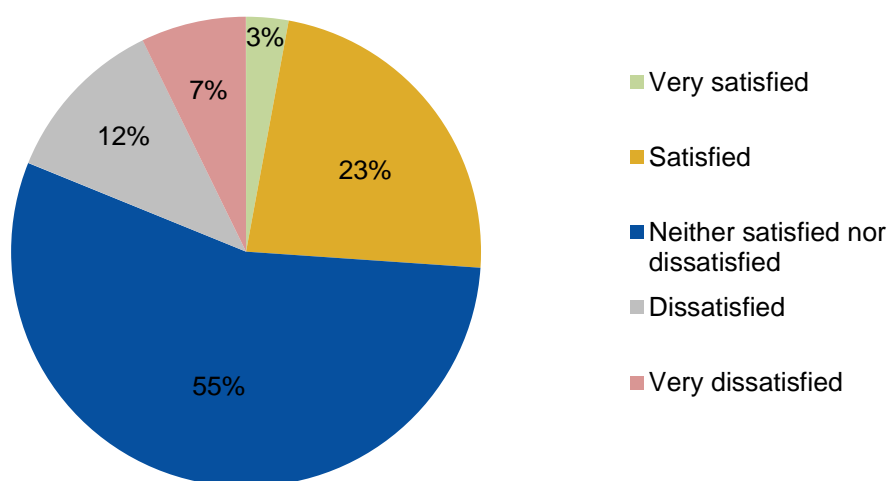


Figure 13

Use of this information for defining potential improvements to the system is a challenge however, as five (5) of the respondents who were dissatisfied chose not to leave an explanation for their analysis. The concerns of the other eight (8) centred around the complex requirements for performing diligent searches which are perceived as rendering the system unsuitable for mass digitisation. One respondent commented that there was a 'guilty until proven innocent' logic to the Orphan Works legislation that was obstructive to open access and sharing. The legislation was prohibitive and tended to scare people away. This respondent also put forward the suggestion that the use of the US-based principle of fair dealing in Europe would encourage more interest in recording orphan works. Moreover, there was no guidance on what constituted sufficient due diligence and no way to check if an orphan work had already been recorded somewhere else. Finally, the participant stated that the Orphan Works legislation did not apply to stand-alone images rendering it pointless in many cases. Another respondent stated that the Extended Collective Licensing system provides legal certainty, whereas the Orphan Works system does not.

When questioned in more detail regarding the perceived challenges to effective use of the Orphan Works system, the complex requirements for performing diligent searches were once more highlighted by many as a drawback. 43 % (29) of the Beneficiary Organisations rated this as very important and a further 16 % (11) as important. Lack of funding for digitisation activities was listed as very important by 37 % (25) respondents and lack of human resources was considered as very important by 34 % (23) respondents. Less significant was a lack of information on orphan works, i.e. low awareness about the database and

the Orphan Works system in general, which 24 % (16) respondents listed as not important and a further 18 % (12) only as slightly important (see Figure 14).

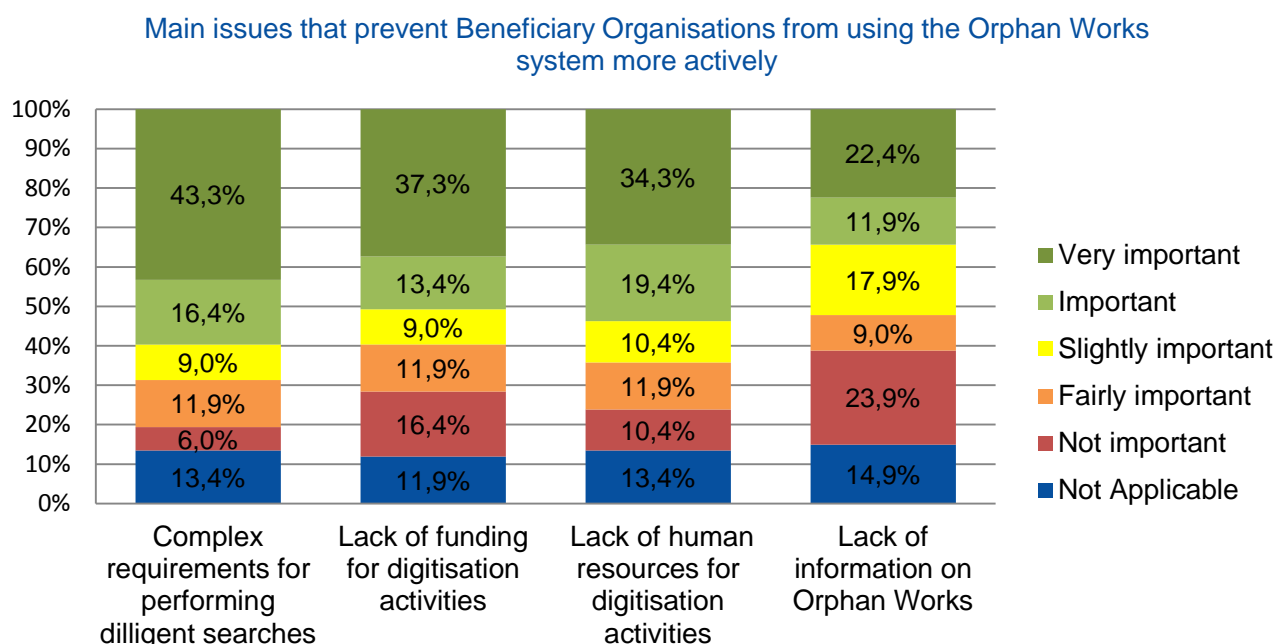


Figure 14

In the comments field, one entity stated that the concept of orphan works is of little use, since there are millions of digital content objects that need to be made available, and the process of recording orphan works is much too heavy for this. They focus on extended collective licenses to make protected content available online, but this is problematic in other ways, especially in that it requires funding.

Another institution went on to state that some search paths suggested by the diligent search requirements are in contradiction to common sense. For instance, searching for an orphan work from the 1910s in archives of institutions which didn't exist back then and hold no data about film heritage was not of any use.

COMMENT BOX

"Limited staffing, budgets and technical support (internal) pushes us to digitise "safe" content at the expense of orphan content."

An analysis of Beneficiary Organisations' attitudes towards performing diligent searches reveals that only few of them indicated that they were satisfied. One user claimed to be very satisfied (1 %), but only a further 6 (9 %) claimed to be generally satisfied. A further 30 % (21) answered not applicable. The majority of Beneficiary Organisations polled, 41 % (28), were neither satisfied nor dissatisfied but significantly, a further 16 % (11) were distinctly dissatisfied with the current setup and 3 % (2) were very dissatisfied (see Figure 15).

Experience related to performing diligent searches for Orphan Works

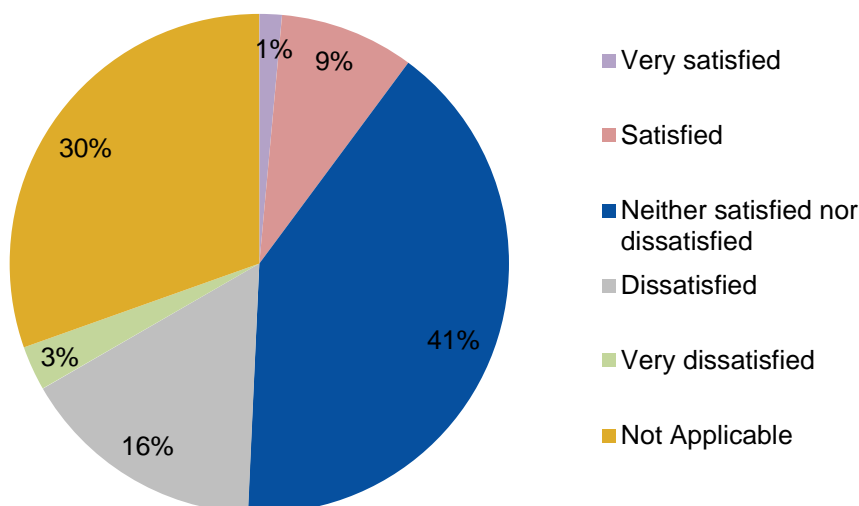


Figure 15

One of the dissatisfied contributors stated that the diligent search requirements are often not as well defined as they could be, especially when searching for rights holders relating to content not in the 'mainstream' but in niche areas. Another suggested that currently they were using the Orphan Works system only for special projects, or for special works. This complexity was also an issue for a third user, which reported simply that it is very complex to trace the rights holders.

When given an opportunity to describe their experience (any issues or positive aspects) related with performing diligent searches, 33 responses were obtained, many of which focused on the time needed to perform a diligent search and the complexity. 'Diligent searches are too complex and require human and time resources that make it impossible to register orphan works massively' was one opinion. Another opinion stated that the sources that have to be consulted and which are not accessible online take a significant amount of time (also to receive an answer). Finally on this subject, another user stated that the large amount of time that is needed to perform diligent searches (especially since every embedded work requires the same treatment), the effort and money required renders the system not suitable for large numbers of works.

During the survey 29 institutions were able to estimate the time required for performing diligent searches for an orphan work, and responses were varied. The shortest time indicated was half an hour, which may indicate that the respondent did not fully grasp the question and this is likely also true of the participant that answered 5 years. As the answers were text based, it is not possible to establish an exact average figure for the responses to this question, but many of the answers fell into the 2 – 6 hour range.

COMMENT BOX

"It took one staff member three working days to perform a diligent search on a single object - a diary contains poems and writings from multiple authors. At the end, we still weren't sure whether we had done enough to satisfy the requirements of a due diligence search. We have dozens of similar objects so this process would be unworkable for us."

When asked to describe their experience related to changing the status of orphan works (i.e. appearing rights holders and changing the status in the database), 29 institutions responded, albeit the prevailing

answer was 'none'. On a more proactive note, one respondent suggested that changing the rights status in the database is a bit inflexible for the Beneficiary Organisation; however, issues have been resolved in good dialogue and communication with the EUIPO. A second respondent simply stated their experience in relation to status changes was 'fine'.

COMMENT BOX

"The lack of financial resources is a major obstacle for engaging in digitisation efforts on a larger scale. In addition, lack of human resources forces us to focus on the material that is in public domain, since there is not enough staff to conduct diligent searches on day-to-day basis."

The request to describe any other issues in more detail, once more highlighted ongoing concerns with the resources, both human and financial, needed to use the database. One institution commented that it is very labour-intensive to carry out due diligence searches, particularly for a small academic institution and a second claimed that it had no funds for hiring people who would perform diligent searches and work with the Orphan Works

system. The most comprehensive answer in this section came from a Beneficiary Organisation that stated 'we endeavour to build the diligent search requirements into rights clearance processes for a project, but often the requirements are not a good fit if the material is not mainstream or commercially published, and so checking some of them can feel like "ticking boxes" for the exception rather than useful avenues of inquiry. Checking resources which are not relevant to tracking down the rights holders adds to the resource requirement of the project, which in turn adds to the cost of the digitization project. This extra financial burden will often result in material being cut from the project rather than the exceptions being used.'

Finally, participants were asked to indicate what measures (e.g. legislative, promotional, etc.) could be taken to ensure that the benefits of the Orphan Works system are fully realised. Legislatively, suggestions focused on what some perceived as the excessive requirements for diligent searches. It was suggested that a short and final list of relevant sources required for diligent searches was necessary. One contribution suggested that a less prohibitive legal standard could be applied, i.e. 'the ability to register an object with a less onerous due diligence, knowing that it could be taken down by a copyright claim (i.e. innocent until proven guilty rather than guilty until proven innocent.)'. Another comment on legislation was the need for 'More flexibility to adapt regulations of diligent search to real life scenarios. On the legislative level: registration of Orphan Works is not attractive if the consequence of registration is that they can't be shown anywhere but on the Internet. That's the last place where they make sense.' Similarly, another respondent suggested that the scope of uses under the exception should be expanded for other public mission and in-venue uses, e.g. ability for cultural heritage institutions to screen orphan films. Finally, it was suggested that the scope of the Directive should be extended to art works, photographs and postcards.

In terms of promoting orphan works, one participant felt that there could be more work at national level to help copyright officers to promote and explain the database, like the train-the-trainer sessions. This user also suggested a meeting of Beneficiary Organisations, national authorities and rights holders to discuss and review what's happened since the directive, share information and experiences of diligent search and using the database. Another user suggested that dissemination of any relevant information regarding the use of the Orphan Works system would be very useful. Webinars were advocated as a way to reach wider audiences.

COMMENT BOX

Legislative measure - excessive requirements for diligent search should be changed. These requirements are not in compliance with outcome - if work is orphan, why it should be in copyright for good and why restrict the use of Orphan Work? The outcome is, that libraries and other memory institutions have a number of works, what has made enormous effort, but use of these works are restricted. To whom is it useful?

1.5 REPLIES FROM COMPETENT NATIONAL AUTHORITIES

1.5.1 USE OF THE ORPHAN WORKS DATABASE

Competent National Authorities were first asked whether they were existing Orphan Works database users or had experience of using the database, to which the majority, 86 % (19 out of 22), claimed that they had (see Figure 16).

Do you have experience in using the Orphan Works Database?

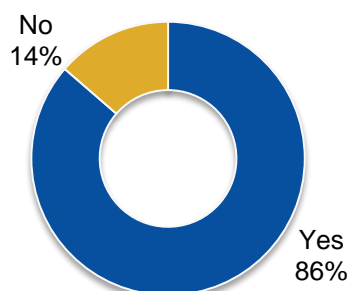


Figure 16

When asked to evaluate their experience, all 19 Competent National Authorities that had used the database (100 %) stated that they were satisfied with their experience, although few left specific comments. Those that did praised the system as ‘friendly’ and easy to use. Those that had not used the database 14 % (4) indicated that so far there were no orphan works coming from the national Beneficiary Organisations.

When Competent National Authority participants were asked to indicate if they had any suggestions for improvements of the Orphan Works Database, very few (2) responded. One suggested that it was quite difficult to find a link to the database for the new users. Another suggestion was to include a link to the database manual for the Beneficiary Organizations in a prominent place, preferably in the national languages. This, explained the contributor, ‘will help organizations that for some reason have not reached the instructions beforehand, to familiarize themselves with the course of registration before you decide to register’.

1.5.2 BENEFICIARY ORGANISATIONS AND DIGITISATION PROJECTS

The second part of the Competent National Authority section of the questionnaire was aimed at identifying key Beneficiary Organisations in the various Member States potentially holding substantial amount of orphan work records. The results can be seen below (Table 2).

MEMBER STATE	BENEFICIARY ORGANISATIONS
Austria	Austrian National Library, University of Innsbruck.
Belgium	State Archives of Belgium, Royal Belgian Film Archive (Cinematek), Royal Library of Belgium, Royal Museum for Central Africa.
Croatia	National and University Library in Zagreb, Zagreb City Libraries, Croatian State Archives, Archive of Croatian Radiotelevision.
Cyprus	N/A
Czech Republic	Libraries, National Film Archive, museums, galleries.
Estonia	N/A
Finland	The National Library, the National Archives of Finland, the National Audiovisual Institute.
Germany	German National Library.
Greece	National Library of Greece, National Documentation Centre, Collective Management Organization of writers and authors (OSDEL), General State Archives, Library of the Greek Parliament, Chamber of Fine Arts of Greece, Greek National Television (ERT), Benaki Museum, Greek Film Archive, Hellenic National Audiovisual Archive, Music Library of Greece (Lilian Voudouri).
Hungary	National Széchenyi Library of Hungary, audiovisual archives.
Ireland	Universities, archival organisations, individual local authorities.
Italy	Universities, archival organisations, individual local authorities. Institutes for audiovisual heritage and public service broadcasters.
Latvia	National Library of Latvia.
Lithuania	Martynas Mažvydas National Library of Lithuania, Panevėžys County Gabrielė Petkevičaitė-Bitė Public Library, Šiauliai Aušros Museum.
Netherlands	Eye Film Institute, National Library of the Netherlands, National Archive, Institute for Sound and Vision.
Poland	National Library of Poland, National Film Archive.
Portugal	Cultural Heritage Institutions.
Romania	Libraries, educational institutions and museums, archives, cinematographic or phonographic heritage institutions and public-service broadcasting organisations.
Slovakia	Slovak National Gallery, the Monuments Board of the Slovak Republic, Museum of the Slovak National Uprising, the State Scientific Library in Prešov, Slovak National Library (SNL), Slovak Film Institute.
Spain	Public educational institutions, museums, libraries, newspaper libraries, as well as public service broadcasting organisations, archives, music libraries and film libraries.
Sweden	National Library of Sweden, Swedish Film Institute, Swedish National Archives, the Swedish television (SVT).
United Kingdom	2 500 museums, 3 393 public libraries, 3 000 community archives, 979 academic libraries, approximately 3 500 trust archives.

Table 2 - Key Beneficiary Organisations in the Member States

When asked whether there was any on-going or planned orphan works digitisation project to be implemented in the coming year, very few 14 % (3) Competent National Authorities provided information about on-going or planned projects (see Figure 17).

Is there any on-going or planned Orphan Works digitisation project to be implemented in your Member State over the next 12 months?

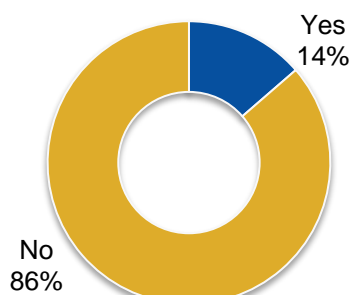


Figure 17

The vast majority, 86 % (20), stated that there is no information about on-going or planned orphan works digitisation projects, although none was able to explain in any detail why this was the case.

Given that positive responses to the above question were so few, answers to the following section of the questionnaire requesting Competent National Authorities to describe the orphan works digitisation projects, indicating organisation(s) involved, timeline for implementation and approximate number of works to be digitised as orphans were somewhat limited. Three projects were referenced: potentially at least one large digitisation project could enter the implementation phase this year in Poland, the Eye Film Institute (Netherlands) has an ongoing project potentially covering hundreds of works and the Linen Hall Library (UK) was planning a digitisation project for around 700 journals.

Competent National Authorities were asked to provide information on how digitisation projects are funded in the various Member States (EU programmes, state budget, specific programmes, etc.) and the results can be seen below (Table 3).

MEMBER STATE	BENEFICIARY ORGANISATIONS
Austria	N/A
Belgium	State Budget (the Digit 03 project is a general digitisation project for the Belgian scientific institutions); specific state programmes (cooperation of small group of institutions); EU programmes (Europeana), gifts.
Croatia	EU programmes and state budget.
Cyprus	N/A
Czech Republic	Public private partnership projects.
Estonia	N/A
Finland	State budget.
Germany	N/A
Greece	Mostly EU programmes and state budget.
Hungary	The digitisation project ELDORADO funded by an EU program.
Ireland	N/A
Italy	European programs or through partnership agreements with the private sector.
Latvia	N/A
Lithuania	Generally state budget. The project 'Presenting Works of the Lithuanian Classical Literature Online' is funded partially by the Creative and Copyright Protection Program from the Ministry of Culture.
Netherlands	Specific programmes.
Poland	Some of the large digitisation projects are financed from the state budget, under the funds of the special program of the Ministry of Culture and National Heritage dedicated to digitisation projects. Polish orphan works so far registered have been digitised thanks to the funds of the Ministry of Science and Higher Education granted under the National Program for the Development of the Humanities.
Portugal	N/A
Romania	Projects dating 2008-2013 were funded through EU programmes.
Slovakia	State budget, EU programmes.
Spain	N/A
Sweden	Digital preservation: A pilot study; Spectrum; DISKA, EU-networks and EU-Projects (DCH-RP, Linked Heritage, Athena Plus, Europeana Inside).
United Kingdom	N/A

Table 3 - Funding methods for digitisation projects

1.5.3 PRACTICAL FUNCTIONING OF THE ORPHAN WORKS SYSTEM (INCLUDING LEGAL REQUIREMENTS)

The third section of the Competent National Authority questionnaire related to the practical functioning of the Orphan Works system (including legal requirements), and began with an enquiry as to how satisfied users were with the system.

Levels of satisfaction were found to be far higher at Competent National Authority level than with the Beneficiary Organisations, none expressing any dissatisfaction (see Figure 18).

How satisfied are you with the practical functioning of the Orphan Works system?

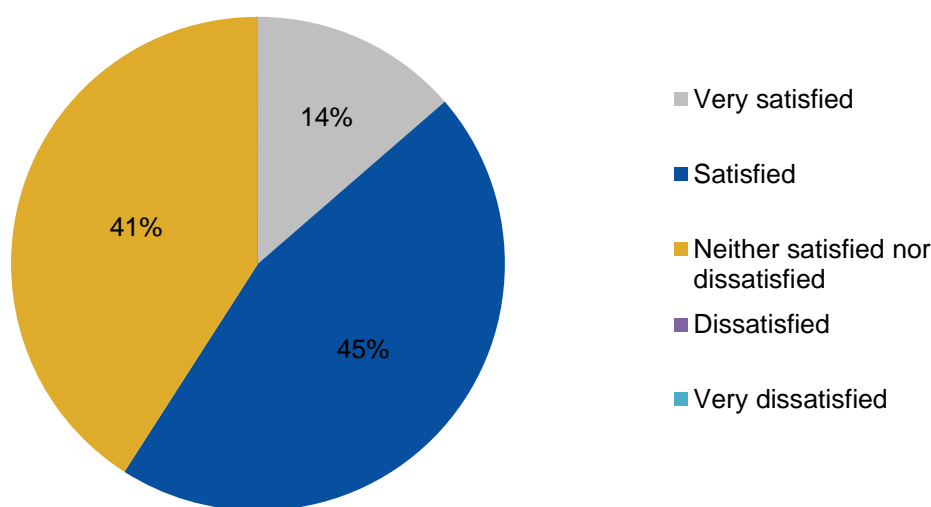


Figure 18

Questioned as to what they perceived as the main challenges for Beneficiary Organisations that prevent them from using the Orphan Works system more actively, the Competent National Authorities indicated that the complexity of requirements for performing diligent searches 50 % (11), as well as a lack of funding 45 % (10) and human resources 41 % (9) for digitisation activities, feature as the most significant ('very important') issues. A further 27 % (6) rated as 'important' the lack of funding and human resources. The Competent National Authorities did not generally see that Beneficiary Organisations would consider a lack of information as a particular problem (see Figure 19). This illustrates that the approach of the Beneficiary Organisations and the Competent National Authorities is largely the same.

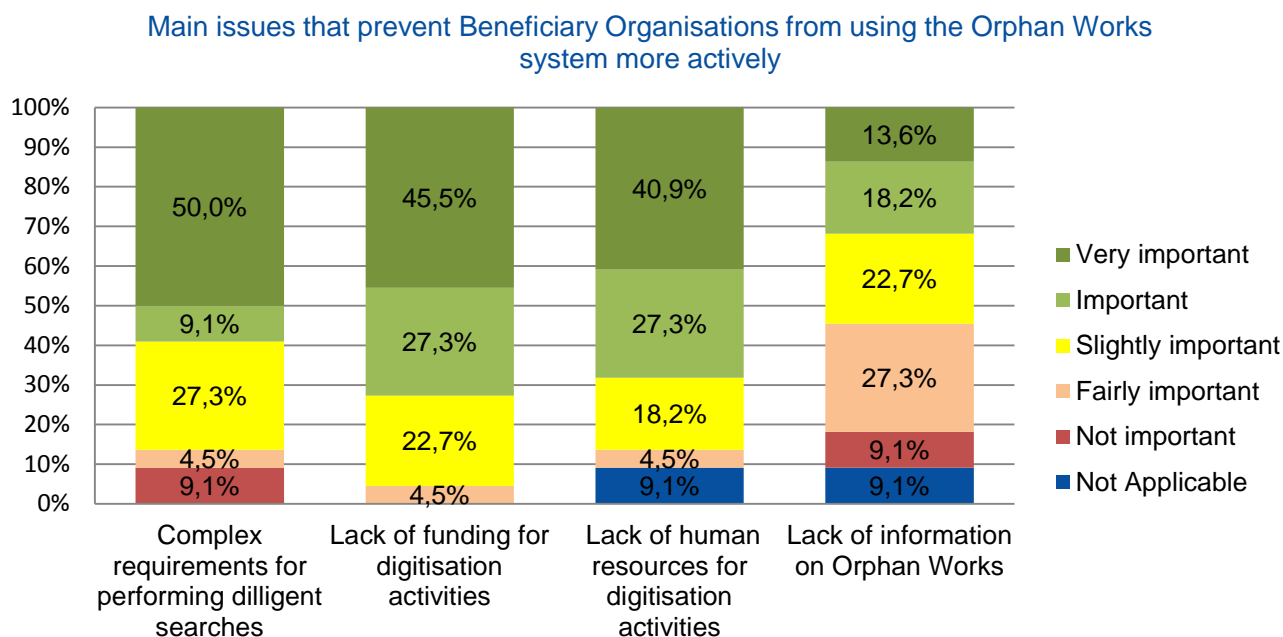


Figure 19

When asked whether there exists a list of sources for performing diligent searches, 86 % (19) of the respondents claimed that there does, with the remaining stating that this was not currently the case. Of those that replied positively, many included the relevant domestic copyright legislation under which the sources indicated operate.

16 Member States indicated that there is a list with sources that are mandatory for performing diligent searches in their territory. Three (3) Member States indicated that a list with sources is not of a mandatory nature.

The questionnaire went on to investigate practical issues related to the implementation or application of the list of sources for performing diligent searches. One respondent indicated that, in addition to the time consuming procedure for diligent searches, there is also a problem of obtaining answers from several institutions identified as sources of diligent searches. Another respondent indicated that some sources are not accessible online, some require registration and some are subject to payment. It was also noted by another respondent that the list of sources is not flexible (i.e. not able to provide valuable information) and some sources (such as ARROW) do not operate at all.

Seven Member States responded that there are guidelines for performing and documenting diligent searches at the national level and a number provided electronic links to the relevant information.

Regarding planned promotional activities, 68 % (15) of Competent National Authorities claimed to be planning events and training promoting the Orphan Works system in the near future (see Figure 20). Planned events include workshops, presentations, lectures, training and a meeting of cultural institutions to discuss the topic. Respondents submitted brief descriptions of these activities

Did you implement (or foresee to implement)
promotional activities in your Member State aimed at
promoting the Orphan Works system

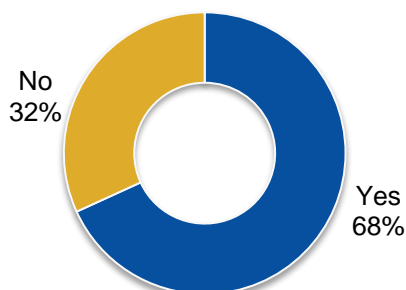


Figure 20

When asked for suggestions for promotional activities which had proved to be successful in a Member State and could be implemented in other Member States or at EU level, Competent National Authorities replied that practical training and activities to promote and to share practical experiences should be considered as priorities.

At the end of that part of the questionnaire participants were requested to indicate what measures (e.g. legislative, promotional) could be taken to ensure that the benefits of the Orphan Works system are fully realised in their Member State. 11 responses were elicited by this question. These included the identification of the financial resources necessary for mass digitisation projects, a better cooperation between the beneficiaries and a better dissemination of information related to the Orphan Works Database, as well as awareness raising schemes. The diligent search element was also raised by some Competent National Authorities with comments such as 'one of the main issues we encounter on why people are not using orphan works relates to the diligent search. However, the minimum requirements of a diligent search for the Directive cover sources that would be checked for any normal rights clearance process before a work is identified as an orphan. Setting out clearly to beneficiary the requirements of a diligent search would be beneficial. This could be done through case studies or examples of how a diligent search has been completed'. Another respondent simply stated that 'the requirements for performing diligent searches could be simplified'. It was also suggested to extend the scope of the Orphan Works Directive to art works and photographs.

1.6 REPLIES FROM OTHER STAKEHOLDERS

1.6.1 USE OF THE ORPHAN WORKS DATABASE

The Orphan Works Survey received contributions from 29 Other Stakeholders, i.e. associations or entities representing the interests of rights holders, cultural organisations, collective management societies, civil society, as well as individual respondents, 38 % (11) of whom having had experience of using the database (see Figure 21).

Do you have experience in using the Orphan Works Database?

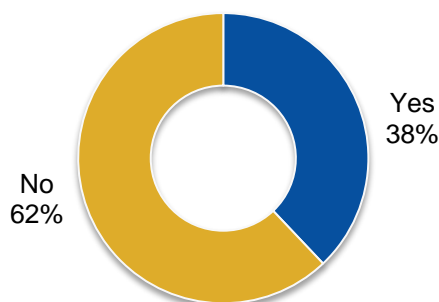


Figure 21

In terms of the context in which the Other Stakeholders claimed to be using the database, most claimed that their main purpose for employing the tool was to perform general searches.

When polled on levels of satisfaction with using the Orphan Works Database, most of the 11 users that were able to reply displayed a certain degree of unhappiness, with 46 % (5) describing themselves as very dissatisfied, 18 % (2) as dissatisfied, 9 % (1) neither satisfied nor dissatisfied and a further 27 % (3) as generally satisfied (see Figure 22).

How satisfied were you with your experience in using the Orphan Works Database?

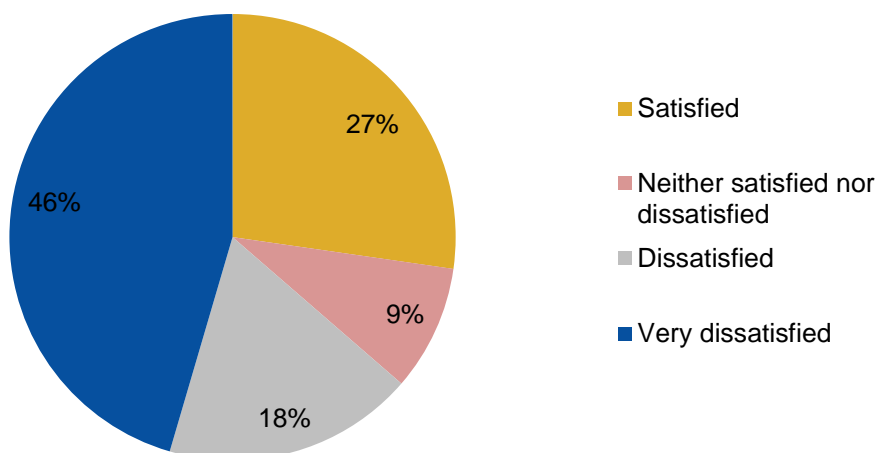


Figure 22

Reasons given for this dissatisfaction were largely unvoiced but two ‘very dissatisfied’ users expressed concerns regarding the magazine project. One of them wrote: ‘Results for a Spare Rib magazine search on illustration give results for Rights Holder that either say Anonymous, or give one name or part name. Clicking though to a magazine with one named rights holder reveals that there are many illustrations that are credited in the magazine, but not named in the Orphan Works Database. This lack of detail makes the Database appear less than useful as a resource’. It was also observed by another user that ‘It can be very hard to know which work the database is referring to; a link or a preview would be great’. Another user simply stated that ‘The database is slow, has a terrible UI and is — which is not the fault of the database itself — virtually deserted.’

Simultaneously, a poll of those who had not used the database showed, in varying levels of detail, that their main reason for non-use was that there was no immediate need or desire for the tool in their respective fields.

COMMENT BOX

“There is no real usecase that works for me: when a work is orphaned, I am still not permitted to reuse it under a free license, which renders the whole exercise pointless.”

When asked to indicate suggestions for improvements of the Orphan Works Database, 13 respondents replied with various suggestions. It was suggested to include a visual record of the work in the database where possible. One suggestion identified as important that the national authorities of the different countries and the bodies designated as sources be consulted by the beneficiary entities in the diligent search procedure, such as the intellectual property rights management entities, in order to ensure that diligent searches are carried out properly and that the information contained in the database reflects the reality. In another submission, the database was deemed to require a much higher level of accuracy in the data entry. This user stated that ‘it’s rarely clear how to use the site or perform a search, and sometimes you get no results unless you know exactly how to do the search’. It was suggested by another user that the checking of entries provided to the database appears to be essential. Finally, one participant claimed that ‘the database will never be good as long as the Directive on orphan works is terrible and without any incentive to use it’.

1.6.2 PRACTICAL FUNCTIONING OF THE ORPHAN WORKS SYSTEM (INCLUDING LEGAL REQUIREMENTS)

In the questions related to the practical functioning of the Orphan Works system (including legal requirements), Other Stakeholder participants were once more asked to record their levels of satisfaction and in this instance, over half, 59 % (17 out of 29), replied that they were neither satisfied nor dissatisfied, while 38 % expressed some level of dissatisfaction (see Figure 23).

How satisfied are you with the practical functioning of the Orphan Works system?

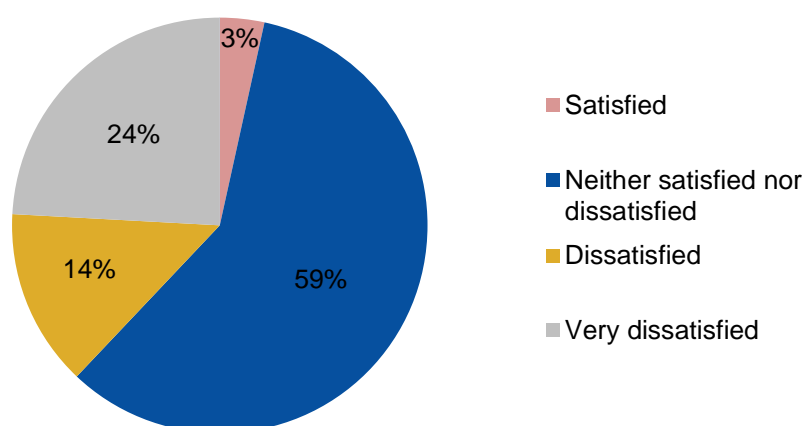


Figure 23

Comments from the very dissatisfied respondents representing 24% (7 participants) included that 'it didn't achieve its policy goal. The diligent search is a burden and too unclear in its practicalities and the Beneficiary Organisations are too limited' and 'the Orphan Works Directive in the EU is a failure. It fails to allow mass digitization of the 20th century. It creates high administrative costs and produces no benefits to rights holders or the public'.

COMMENT BOX

"Cultural heritage institutions lack economic and human resources to conduct it themselves. Another possibility would be to establish a body in charge of conducting this searches. Or finally, to establish a sampling approach, through which there is an understanding that if the search shows no results at all for a 20% of the collection, the same can be assumed for the remaining 80%, for which no diligent search will be required. Further legislative measures should be taken into account to make sure that all kinds of works can be subject to the orphan works legislation."

When questioned more specifically regarding the perceived challenges to the effective functioning of the Orphan Works system, as with the other two stakeholder groups, the complexity of performing diligent searches was once more highlighted by many as a serious issue. 34 % (10) Other Stakeholders rated this as very important and a further 10 % (3) as important. However, unlike the other participants, a number of Other Stakeholders representing 17 % (5) did not see complex requirements for performing diligent searches as an issue at all; a lack of funding for digitisation activities was identified as potentially the most pressing challenge (very important/important) (see Figure 24). Lack of human resources was also considered as a very important (7) or important (7) challenge by 48 % of respondents.

Main issues that prevent Beneficiary Organisations from using the Orphan Works system more actively

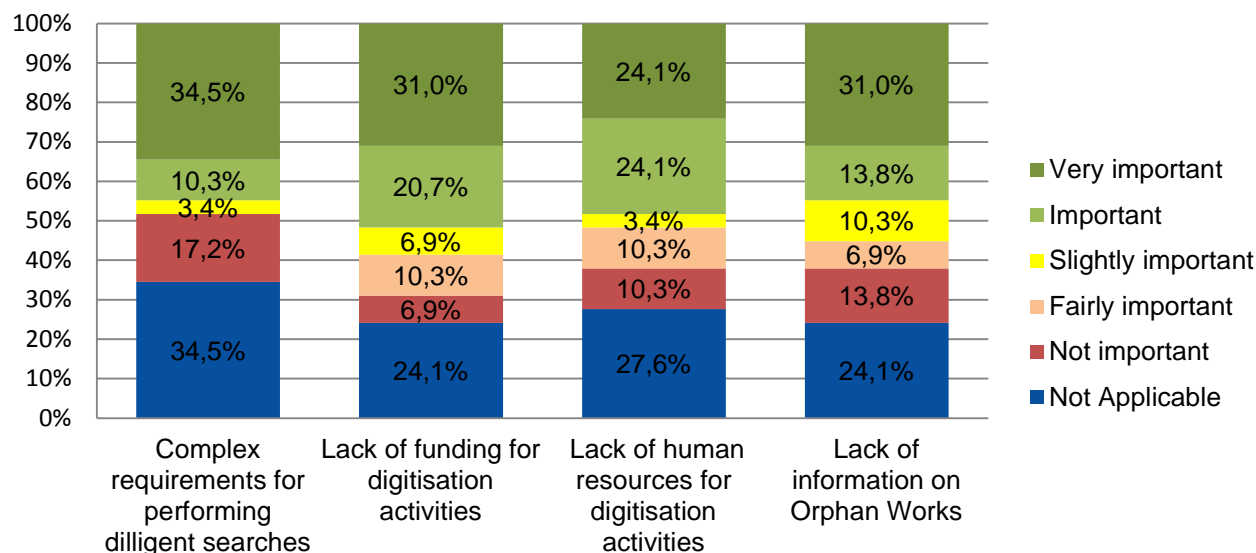


Figure 24

Contributors were also invited to comment on the challenges that they identified and a small number (5) took this opportunity. The complexity issue was again reinforced with the observation from one respondent that ‘after 17 months of orphan works regulation been in force only 26 items from our country are registered in the database. This is mostly because of complex requirements for performing diligent searches’, whilst another stated that ‘diligent searching requires consulting a large number of sources of information, of which a considerable percentage are not easily accessible or are not accessible at all. In some countries, between one-third and one-half of the sources to be consulted are not in free online access, but are restricted’.

Finally, when asked to indicate what measures (e.g. legislative, promotional) could be taken to ensure that the benefits of the Orphan Works system are fully realised, Other Stakeholders were found to have a number of opinions.

One contributor suggested proper resourcing of Beneficiary Organisations to perform the necessary checks, combined with ‘compulsory re-education’ of Beneficiary Organisations concerning the reasons for the legislation taking the shape it does, in order to protect the legitimate interests of authors and their heirs. Another contributor suggested taking a holistic approach to digitisation that encompasses search, negotiation and remuneration. It was also suggested to allow commercial companies to become the beneficiaries of the system.

Further suggestions concentrated around the issue of diligent search requirements. One contributor stated that ‘further measures should be taken in order to make the requirement of the diligent searches easier and less burdensome. Either legislative measures that eliminate the requirement or that make it non-mandatory, or through practical means such as a single research instrument or an institution to assist in conducting (or that conducts) the search’. Another contributor indicated that legal certainty for Beneficiary Organisations is required; this could be achieved by defining a hierarchy of sources,

differentiating between mandatory and optional sources or establishing that the diligent search is done in good faith, even if the sources could not be consulted because they were not freely available.

Besides several replies which suggested that the Orphan Works Directive needs to be overhauled, reuse of orphan works under certain conditions was indicated as one of the areas requiring legislative amendment, with one respondent stating that there should be a 'lobby for actually useful reuse options, where orphaned works under certain conditions can be reused under a free license (without the possibility of nullifying the license)'.

1.7 SUMMARY ANALYSIS OF REPLIES

The fact that the Orphan Works Survey generated input from 120 respondents in 26 Member States and EEA countries results in a meaningful dataset on which to conduct a constructive analysis.

Of the Beneficiary Organisations that responded to the survey, half were already registered users of the Orphan Works Database, indicating a relatively expansive level of take up amongst this group of stakeholders. Even more encouraging however, was the discovery that there is a widespread intention to join the Orphan Works community amongst the Beneficiary Organisations that had not yet registered as users, showing that the database is perceived as having the potential to add value.

It is also satisfactory to observe that all of the Beneficiary Organisations that had uploaded information to the database claimed to be satisfied with their experience, indicating that this process is sound from the perspective of Beneficiary Organisations. Despite this, only 25 % of those questioned stated that they intended to upload further data in the near future, potentially indicating that there are constraints that prevent using the database.

Concerns were expressed in other areas however, not least with the complexities surrounding the diligent search requirement and the amount of time and human resources that are needed to use the Orphan Works system effectively.

Another finding that stood out was that nearly half of the Beneficiary Organisations questioned did not use any form of standard for the storage and exchange of information and of those that did, 22 different standards were found to be in place. Whilst a number of these may be compatible, this fact nevertheless indicates the potential for integration projects. Only 42 % of Beneficiary Organisations polled expressed an interest in any form of system-to-system integration with the Orphan Works Database.

Although overall levels of satisfaction with the practical functioning of the Orphan Works system (including legal requirements) can be considered broadly adequate, a number of Beneficiary Organisations expressed levels of dissatisfaction with specific elements of the system that merit further analysis.

Concerns repeatedly returned to the diligent search requirement, which many participants felt is unnecessarily cumbersome and time consuming. Practical concerns focused on the resources necessary for performing digitisation activities effectively and the cost and time implications that this has.

It is perhaps of note that a number of Beneficiary Organisations expressed dissatisfaction with the Orphan Works Directive, suggesting that the sense that it engenders amongst Beneficiary Organisations is 'guilty until proven innocent'.

Finally, good response levels to questions regarding future Orphan Works training and awareness building activities give rise to the conclusion that many Beneficiary Organisations feel that there is a place and future for the orphan works system, albeit that certain legal framework and technical issues are currently hindering its expansion.

As with the Beneficiary Organisations, Competent National Authorities that had used the database expressed broad satisfaction with their experience, indicating that the overall concept is also on track

among this group of stakeholders. Once more however, very few of the Competent National Authorities polled indicated availability of large-scale orphan works digitisation projects in the near future, indicating that some negative considerations may be prohibiting a higher level of take up.

Competent National Authorities expressed far higher levels of satisfaction with the practical performance of the database than those seen with the Beneficiary Organisations.

It is notable that the opinions expressed by Beneficiary Organisations regarding the obstacles for using the Orphan Works system more actively were almost entirely repeated by the Competent National Authorities when they were questioned. This suggests that there is a good understanding amongst Competent National Authorities of the pressures and constraints that Beneficiary Organisations work under.

Once more, the high number of Competent National Authorities that indicated that they are planning training and awareness building events in the near future can be seen to indicate that, broadly speaking, Competent National Authorities appear to have confidence in the Orphan Works system, whilst simultaneously expressing the fact that some improvements still need to be addressed.

Just over a third of the Other Stakeholders polled, i.e. associations or entities representing the interests of rights holders, cultural organisations, collective management organisations, civil society representatives, as well as individual respondents, had direct experience of using the Orphan Works Database, indicating that many of the opinions that this group could express would be conceptual, rather than based on practice.

Whilst the levels of dissatisfaction in their individual experiences of using the database were high, further analysis revealed many to have had specific complaints about isolated events (such as a specific project) and not wider criticisms.

Potentially as many Other Stakeholders had no direct experience of using the database itself, some focused on the broader question of whether the system has achieved its policy goal, with a number stating that it had not.

1.8 CONCLUSIONS

The replies to the survey indicate that there is broad satisfaction amongst users with the overall experience of using the Orphan Works Database.

Specific concerns have been voiced repeatedly around the diligent search requirements, which are perceived as too complex and rendering the system unsuitable for mass digitisation.

Other significant misgivings include the human and financial resources required to perform digitisation of orphan works.

Significant disparity was found in the standards for data retention and transfer being used by Beneficiary Organisations.

A number of Beneficiary Organisations dislike the legislation behind orphan works, which they claim makes them feel 'guilty until proven innocent'.

Competent National Authorities appear to be aware of the challenges faced by Beneficiary Organisations.

There are strong indications from the Beneficiary Organisations and Competent National Authorities that the concept of the Orphan Works system is sound and has a future, potentially with some legal and technical adjustments.

Some Other stakeholders, i.e. associations or entities representing the interests of rights holders, cultural organisations, collective management organisations, civil society representatives, as well as individual respondents, see the Orphan Works system as not having achieved its aims conceptually.

The high number of responses submitted to this survey serves to highlight the importance which stakeholders attach to the ongoing development the Orphan Works system and its future success.

1.9 APPENDIX: ORPHAN WORKS SURVEY 2017

IDENTIFICATION OF RESPONDENT AND COUNTRY CONCERNED

What type of stakeholder are you representing? *

Please choose **only one** of the following:

- ☐ Beneficiary Organisation of the Orphan Works Database, i.e. publicly accessible library, educational establishment, museum, archive, film or audio heritage institution, public service broadcasting organisation
- ☐ Competent National Authority for the Orphan Works Database or (and) the Directive 2012/28/EU
- ☐ Other (including individual)

What type of Beneficiary Organisation are you representing?

Only answer this question if the following conditions are met:

Answer was 'Beneficiary Organisation of the Orphan Works Database, i.e. publicly accessible library, educational establishment, museum, archive, film or audio heritage institution, public service broadcasting organisation' at question (What type of stakeholder are you representing?)

Please choose **only one** of the following:

- ☐ Library
- ☐ Educational establishment
- ☐ Museum
- ☐ Archive
- ☐ Film or audio heritage institution
- ☐ Public service broadcasting organisation
- ☐ Other

Where are the headquarters of your organisation located? If you are an individual, where are you based? *

Please choose **only one** of the following:

- | | | |
|--------------------------------------|------------------------------------|--------------------------------------|
| <input type="radio"/> Austria | <input type="radio"/> Greece | <input type="radio"/> Norway |
| <input type="radio"/> Belgium | <input type="radio"/> Hungary | <input type="radio"/> Poland |
| <input type="radio"/> Bulgaria | <input type="radio"/> Iceland | <input type="radio"/> Portugal |
| <input type="radio"/> Croatia | <input type="radio"/> Ireland | <input type="radio"/> Romania |
| <input type="radio"/> Cyprus | <input type="radio"/> Italy | <input type="radio"/> Slovakia |
| <input type="radio"/> Czech Republic | <input type="radio"/> Latvia | <input type="radio"/> Slovenia |
| <input type="radio"/> Denmark | <input type="radio"/> Lichtenstein | <input type="radio"/> Spain |
| <input type="radio"/> Estonia | <input type="radio"/> Lithuania | <input type="radio"/> Sweden |
| <input type="radio"/> Finland | <input type="radio"/> Luxembourg | <input type="radio"/> United Kingdom |
| <input type="radio"/> France | <input type="radio"/> Malta | |
| <input type="radio"/> Germany | <input type="radio"/> Netherlands | |

Please briefly describe the stakeholder you are representing. *

Only answer this question if the following conditions are met:

Answer was 'Other (including individual)' at question (What type of stakeholder are you representing?)

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

Please identify yourself. *

Please write your answer(s) here:

- Name of individual responding

- Name of organisation

- Email

*If you are an individual, you may include **N/A** as **Name of organisation***

QUESTIONS FOR THE BENEFICIARY ORGANISATIONS

I. Questions related to the use of the Orphan Works Database

Is your organisation registered as a user of the Orphan Works Database? *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Would your organisation be interested in becoming a registered user of the Orphan Works Database? *

Only answer this question if the following conditions are met:

Answer was 'No' at question (I. Questions related to the use of the Orphan Works Database Is your organisation registered as a user of the Orphan Works Database?)

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Has your organisation provided records to the Orphan Works Database? *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (I. Questions related to the use of the Orphan Works Database Is your organisation registered as a user of the Orphan Works Database?)

Please choose **only one** of the following:

- ☐ Yes
☐ No

Were you satisfied with your experience in using the Orphan Works Database? *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Has your organisation provided records to the Orphan Works Database?)

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please indicate why your organisation has not provided any records to the Orphan Works Database.*

Only answer this question if the following conditions are met:

Answer was 'No' at question (Has your organisation provided records to the Orphan Works Database?)

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

Please indicate if you have any suggestions for the improvements of the Orphan Works Database. *

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

II. Questions related to digitisation projects, data storage and upload

Is your organisation planning to provide records to the Orphan Works Database over the next 12 months? *

Please choose **only one** of the following:

- ☐ Yes
- ☐ No
- ☐ No information available

Make a comment on your choice here:

You may add a comment to your response

If there is an on-going or planned digitisation project, please, provide more information about the project indicating organisation(s) involved, timeline for implementation, approximate number of works to be digitised as orphans, etc.

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (II. Questions related to digitisation projects, data storage and upload

Is your organisation planning to provide records to the Orphan Works Database over the next 12 months?)

Please write your answer here:

Does your organisation use a standard for storing or exchanging the data (e.g. MARC)?

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

What standard is used in your organisation for storing or exchanging the data?

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Does your organisation use a standard for storing or exchanging the data (e.g. MARC)?)

Please write your answer here:

Would your organisation be interested in using a data extraction tool supporting MARC standard? *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Would your organisation be interested in using a data extraction tool supporting other specific standard(s)? *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please specify what standard(s) would be of interest for your organisation for supporting data extraction.

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Would your organisation be interested in using a data extraction tool supporting other specific standard(s)?)

Please write your answer here:

Would your organisation be interested in implementing system-to-system integration? *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You can add a comment to your response

Please indicate if any other technical assistance is required for providing data to the Orphan Works Database. *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You can add a comment to your response

Please indicate an estimated number of records your organisation would be able to provide to the Orphan Works Database with the help of technical assistance from EUIPO.

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Would your organisation be interested in implementing system-to-system integration?) - or - Answer was 'Yes' at question (Please indicate if any other technical assistance is required for providing data to the Orphan Works Database.)

Please write your answer here:

III. Questions related to the practical functioning of the Orphan Works system (including legal requirements)

How satisfied are you with the practical functioning of the Orphan Works system? *

Please choose **only one** of the following:

- ☐ Very satisfied
- ☐ Satisfied
- ☐ Neither satisfied nor dissatisfied
- ☐ Dissatisfied
- ☐ Very dissatisfied

Make a comment on your choice here:

You can add a comment to your response

Please identify what are the main issues that prevent your organisation from using the Orphan Works system more actively. *

Please choose the appropriate response for each item:

	Not important	Slightly important	Important	Fairly important	Very important	Not applicable
Complex requirements for performing diligent searches						
Lack of funding for digitisation activities						
Lack of human resources for digitisation activities						
Lack of information on Orphan Works						

*Please rate the following options in order of importance. You may rate **all** options that apply.*

If you have additional comments on any aspect of the previous question, please express them in a few words below.

Please write your answer here:

Please evaluate your experience related to performing diligent searches for Orphan Works. *

Please choose **only one** of the following:

- ☐ Very satisfied
- ☐ Satisfied
- ☐ Neither satisfied nor dissatisfied
- ☐ Dissatisfied
- ☐ Very dissatisfied
- ☐ Not applicable

Make a comment on your choice here:

You can add a comment to your response

Please describe your experience (any issues or positive aspects) related with performing diligent searches.

Please write your answer here:

Please indicate an estimate, if available, on approximate time required to perform diligent searches for an Orphan Work.

Please write your answer here:

Please describe your experience related to changing the status of Orphan Works (i.e. appearing rights holders).

Please write your answer here:

Please describe any other issues related to the practical functioning of the Orphan Works system (e.g. lack of financial or human resources) in more detail.

Please write your answer here:

Please indicate what measures (e.g. legislative, promotional, etc.) could be taken to ensure that the benefits of the Orphan Works system are fully realised. *

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

QUESTIONS FOR THE COMPETENT NATIONAL AUTHORITIES

I. Questions related to the use of the Orphan Works Database

Do you have experience in using the Orphan Works Database? *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Were you satisfied with your experience in using the Orphan Works Database? *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (I. Questions related to the use of the Orphan Works Database Do you have experience in using the Orphan Works Database?)

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please indicate what are the main reasons that prevented you from using the Orphan Works Database. *

Only answer this question if the following conditions are met:

Answer was 'No' at question (I. Questions related to the use of the Orphan Works Database Do you have experience in using the Orphan Works Database?)

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

Please indicate if you have any suggestions for the improvements of the Orphan Works Database. *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (I. Questions related to the use of the Orphan Works Database Do you have experience in using the Orphan Works Database?)

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

II. Questions related to the Beneficiary Organisations and digitisation projects

What are the key Beneficiary Organisations in your Member State potentially holding a substantial amount of Orphan Work records? *

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

Is there any ongoing or planned Orphan Works digitisation project to be implemented in your Member State over the next 12 months? *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please describe the Orphan Works digitisation project, indicating organisation(s) involved, timeline for implementation, approximate number of works to be digitised as orphans. *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Is there any on-going or planned Orphan Works digitisation project to be implemented in your Member State over the next 12 months?)

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

Please provide information on how digitisation projects are funded in your Member State (EU programmes, state budget, specific programmes, etc.). *

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

III. Question related to the practical functioning of the Orphan Works system (including legal requirements)

How satisfied are you with the practical functioning of the Orphan Works system? *

Please choose **only one** of the following:

- ☐ Very satisfied
☐ Satisfied
☐ Neither satisfied nor dissatisfied
☐ Dissatisfied
☐ Very dissatisfied

Make a comment on your choice here:

You may add a comment to your response

Please identify what are the main issues that prevent Beneficiary Organisations from using the Orphan Works system more actively. *

Please choose the appropriate response for each item:

	Not important	Slightly important	Important	Fairly important	Very important	Not applicable
Complex requirements for performing diligent searches						
Lack of funding for digitisation activities						
Lack of human resources for digitisation activities						
Lack of information on Orphan Works						

Please rate the following options in order of importance. You may rate all options that apply.

If you have additional comments on any aspect of the previous question, please express them in a few words below.

Please write your answer here:

Please indicate if there is a list of sources in your Member State for performing diligent searches of Orphan Works. *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please indicate if the list of sources for performing diligent searches is mandatory. *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Please indicate if there is a list of sources in your Member State for performing diligent searches of Orphan Works.)

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please provide a description of practical issues related to the implementation or application of the list of sources for performing diligent searches (e.g. the information is subject to payment, difficult to get a reply in time, etc.). If a document is available online, please provide a link.

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Please indicate if there is a list of sources in your Member State for performing diligent searches of Orphan Works.)

Please write your answer here:

Please indicate if there are guidelines in your Member State for performing and documenting diligent searches of Orphan Works. *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please provide a description of practical issues related to the implementation or application of guidelines for performing and documenting diligent searches. If a document is available online, please provide a link. *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Please indicate if there are guidelines in your Member State for performing and documenting diligent searches of Orphan Works.)

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

Please indicate if you implemented (or foresee to implement) activities in your Member State (e.g. events, training) aimed at promoting the Orphan Works system. *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please briefly describe activities aimed at promoting the Orphan Works system in your Member State.

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (Please indicate if you implemented (or foresee to implement) promotional activities in your Member State (e.g. events, training) aimed at promoting the Orphan Works system.)

Please write your answer here:

Please indicate if you have any suggestions for promotional activities which proved to be successful and could be implemented in other Member States or at EU level. *

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

Please indicate what measures (e.g. legislative, promotional) could be taken to ensure that the benefits of the Orphan Works system are fully realised. *

Please write your answer here:

QUESTIONS FOR OTHER STAKEHOLDERS

I. Questions related to the use of the Orphan Works Database

Do you have experience in using the Orphan Works Database? *

Please choose **only one** of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

You may add a comment to your response

Please indicate in which context you were using the Orphan Works Database (e.g. performing searches, claiming status change as returning rights holder, etc.). *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (I. Questions related to the use of the Orphan Works Database Do you have experience in using the Orphan Works Database?)

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

How satisfied were you with your experience in using the Orphan Works Database? *

Only answer this question if the following conditions are met:

Answer was 'Yes' at question (I. Questions related to the use of the Orphan Works Database Do you have experience in using the Orphan Works Database?)

Please choose **only one** of the following:

- ☐ Very satisfied
☐ Satisfied
☐ Neither satisfied nor dissatisfied
☐ Dissatisfied
☐ Very dissatisfied

Make a comment on your choice here:

You may add a comment to your response

Please indicate what are the main reasons that prevented you from using the Orphan Works Database.

Only answer this question if the following conditions are met:

Answer was 'No' at question (I. Questions related to the use of the Orphan Works Database Do you have experience in using the Orphan Works Database?)

Please write your answer here:

Please indicate if you have any suggestions for the improvements of the Orphan Works Database. *

Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

II. Questions related to the practical functioning of the Orphan Works system (including legal requirements)

How satisfied are you with the practical functioning of the Orphan Works system? *

Please choose **only one** of the following:

- ☐ Very satisfied
☐ Satisfied
☐ Neither satisfied nor dissatisfied
☐ Dissatisfied
☐ Very dissatisfied

Make a comment on your choice here:

You may add a comment to your response

Please identify what are the main issues that prevent full realisation of benefits of the Orphan Works system. *

Please choose the appropriate response for each item:

	Not important	Slightly important	Important	Fairly important	Very important	Not applicable
Complex requirements for performing diligent searches						
Lack of funding for digitisation activities						
Lack of human resources for digitisation activities						
Lack of information on Orphan Works						

*Please rate the following options in order of importance. You may rate **all** options that apply.*

If you have additional comments on any aspect of the previous question, please express them in a few words below.

Please write your answer here:

Please indicate what measures (e.g. legislative, promotional) could be taken to ensure that the benefits of the Orphan Works system are fully realised. *

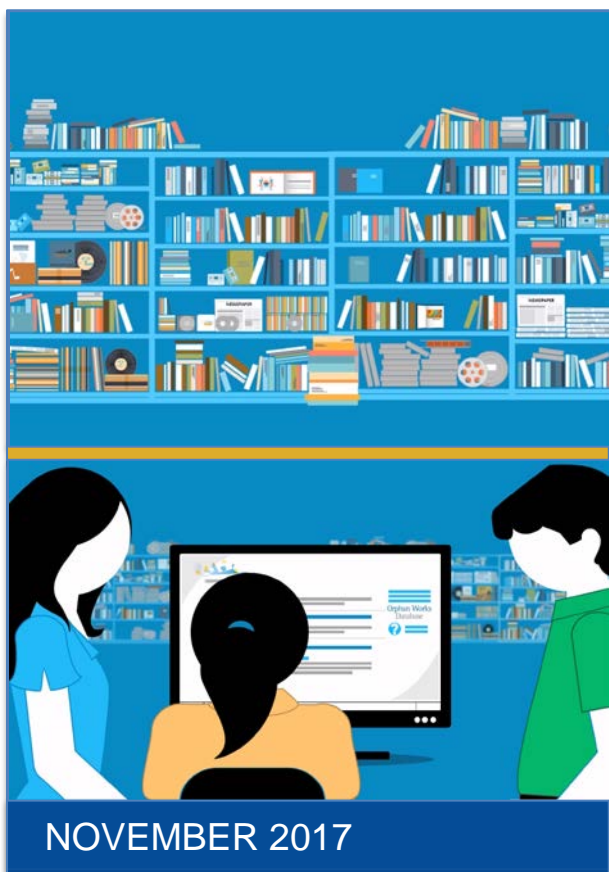
Please write your answer here:

Please indicate N/A if the question is not applicable or cannot be answered

COMMENTS

We would appreciate other general comments on the Orphan Works Survey.

Please write your answer here:



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