

Society of American Archivists/Museum Archives Section Working Group
Meeting Minutes

Wednesday August 2, 2006
National Gallery of Art/West Building Lecture Hall

The meeting began at 1:00 and was chaired by Kristine Kaske-Martin. The new section chair, Marisa Bourgoïn was introduced. The primary topic to be discussed concerned intellectual property rights as well as use and reproduction policies, fees, and practices. The questions that we handed out at the beginning of the meeting were:

1. What do you charge for reproductions of collection material?
2. Do you charge for permission to publish: If so, how much do you charge?
3. Do you allow outside entities use of your materials for profit making enterprises? Why or why not?
4. Does your institution use your materials for fund raising?
5. Who makes the rules we are to follow when it comes to matters that are both ethical and financial?

Maygene Daniels made the distinction between archival materials and works of art. While there are many issues involved in providing surrogates of works of art, there are many benefits to an institution to "publish" an archival piece rather than providing it individually. The National Gallery of Art will charge a reproduction fee but not a use fee. The reproduction fee is a flat \$20 (which doesn't include original photography) – they keep it simple and don't differentiate based on type of client. The archives are not the recipient of the funds, and the opinion was expressed that no one is going to get rich on reproductions of archival materials.

The Air and Space Museum charges a photography fee and a use fee.

MoMA (Museum of Modern Art) is scanning analog photos from 1929-2000 that will be available in 3 sizes of jpegs through ARTstor (23,000 images). There have been no rights restrictions imposed by ARTstor.

The Getty strategy is to put digital materials up in a OAI harvestable form. The policy is to not charge except for clearly commercial use. The legal department has determined that as a non-profit, the Getty organization can not provide an image to an individual or organization who will financially profit from it.

There was a discussion on staffing for rights and reproduction. MoMA outsources the supplying of reproductions.

Next centralized vs. distributed scanning was discussed and quality control was mentioned as an issue. The difference between staff orders (where it might be fine to scan from the archivist desktop) and public orders (where a centralized operation with standardized processes might be a better way to go) was brought up. It was predicted that within five years there will be DAM (Digital Asset Management) systems up on the web and there will be "image ATMs".

Exclusivity – no one spoke up to say that they will grant exclusive rights. There was an inquiry about Smithsonian/Showtime deal which is a 30 year contract that grants right of first refusal to Showtime for films using significant Smithsonian content. No archival personnel we consulted in the development of that contract.

Equal access – consensus was that there should be "no breaks for whiners" – that equal access and equal application of policy should be adhered to. But if an institution charges different amounts to different users for the same thing, are they adhering to the equal access provisions of archivists? Others felt there was nothing wrong with charging more from a commercial client. Some felt that reproductions are a privilege, and not the same

as access – but the two concepts are getting increasingly tangled. The underlying question is whether the fee is a use fee or a service fee.

There was discussion about tax-free status, with some expressing the opinion that being not-for-profit automatically means that an institution is publically funded by virtue of a tax-free status.

Question – “Will anyone give a reproduction if they don’t own copyright?” Some said they would provide a digital file on the word of the client that it was for research purposes only, but others believe that the Digital Millenium Act does not allow for dissemination beyond the institution. The Computer Museum has copyrighted photos online that are orphaned works. They will provide a reproduction but with a statement that they are not providing copyright. They believe the materials have no significant commercial value and they will take an image down if requested.

The meeting adjourned at 3:00 and was followed by tours of the Archives of the National Gallery of Art.

Respectfully submitted,

Leah Prescott
Assistant Archivist
J. Paul Getty Trust