Survey: Arts Organizations’ Increased Reliance on the Internet & Digital Technologies
By Katherine E. Lewis

In January 2013, the Pew Research Center’s Internet & American Life Project released the results of its survey among arts organizations receiving grant funding from the National Endowment for the Arts, which are currently using digital technologies to further their missions. Importantly, this survey only encompassed arts organizations; museums with missions outside of the arts (i.e. natural history, scientific, historical preservation, etc.) were not included in this survey.

Of the organizations that participated, 84% were non-profits, 10% were colleges or universities and 4% were state or local government. It would appear from these statistics that no federal arts organization participated in the survey. The majority of the participating organizations were visual arts organizations, followed by music, theater and interdisciplinary organizations.

The survey looked at how arts organizations use internet, social media platforms and other alternative forms.

MALC News & Activities
Check out the Updated MALC Website - New Opportunities to get involved!

MALC invited to comment on ABA Intellectual Property Section's Technical Comment to the U.S. Copyright Office regarding its Orphan Works and Mass Digitization Notice of Inquiry. MALC comments submitted on Jan. 31, 2013.


Looking for generalist to join MALC’s Legal Issues in Museums panel at the AAM 2013 Annual Conference in Baltimore this May. Contact either Gil Whittemore or Katherine Lewis if interested.

Inside This Issue
1 Survey: Arts Organizations’ Increased Reliance on Internet & Digital Technologies.
1 MALC News & Activities
2 In the News
3 Lost & Found
4 About Us | Get Involved
5 Upcoming Events
Survey: Arts Organizations’ Increased Reliance on Internet & Digital Technologies, Cont.

(Continued from page 1)

of digital communication to share content, reach audiences and manage collections. Pertinent to MALC’s mission, the operating budgets of the survey participants ranged from $50,000 to $10 million, with the highest percentage in the middle range of $50,000-499,000. Despite budget, 68% of the survey participants operate with a staff of 10 or less. As MALC’s mission focuses largely on small and mid-sized museums, we consider this survey highly relevant to the way in which our community is utilizing digital media and learning to leverage digital technologies to their benefit. Armed with this knowledge we can better serve our clients in the digital age.

To give readers some sense of the internet and digital presence already thriving in these institutions, at the time of the survey 99% of the participants host their own website; 97% host a social media page; 29% of participants host events or exhibits online, such as webinars, virtual performances or virtual exhibits; 11% cater to a virtual or online audience; and 78% think the internet and digital technologies are very important to the work of their organizations.

In the past, there were generally two schools of thought on sharing content: the first emphasized sharing as a way to increase the value of the content and general diffusion of knowledge. The second school strictly controlled access to content under the theory that increased access necessarily decreases the value and importance of the content. Interestingly, most of the arts institution participants to this survey did not think that digital technologies were diluting the arts by providing a public platform. Instead, participants credit the internet and digital technologies with more diverse audiences than in the past and generally feel that it has increased engagement in the arts by providing a public platform to share art. Participants felt that the Internet has played a role in broadening the boundaries of what is considered art. This seems to indicate an important shift among arts institutions to the former school of thought.

Also, contrary to some fears, internet and digital technologies don’t appear to be decreasing in person attendance. In fact, 51% of participants have seen an increase in the number of in-person events and/or exhibits hosted by the institution, implying that audience attendance is at least at a level where hosting these exhibits is favorable. In addition, 86% of participants have increased online events and/or exhibits. This signifies that not only are the in-person events doing well, but the participating institutions are also finding ways to increase on-line events, perhaps either as supplements to in-person events or as stand alone events, such as webinars or virtual performances. Rather than hurt in-person attendance, digital advances seem to be supporting it as well as becoming strong enough to support new programming.

In the News

King Richard III Remains Found in Present Day Parking Lot
DNA testing confirmed that the human remains discovered in an archeological dig in Leicester, England belong to King Richard III, whose short two-year reign in England was marked by what some claim was an illegitimate rise to power through the alleged murder of his two young nephews. The University of Leicester used DNA samples from two living descendants to confirm the findings. Read more here.

Ja Shi De: Christie’s v. Chritrs in the on going struggle to protect brands in the Chinese Marketplace
Christie’s, world renowned auction house, has sued a Chinese company with a similar sounding name in Hong Kong’s High Court for trademark infringement. Christie’s claims the Chinese company has been misleading and deceiving Christie’s clients. Chritrs, pronounced almost identically to Christie’s, defends claiming its advertising was primarily in print form, not verbal. Read more here.

Does VARA Undermine Historical Accuracy? Some Say, Yes.
In reworking his pieces, whether due to damage or wear and tear, Artist Richard Serra insists on dating the rework with the original date, sometimes creating discrepancies of several years. Magdalena Dabrowski, an independent curator, argues that this interferes with the historical context of the original. Read more here.
However, there is a downside. The majority of participants also felt that in spite of the value add, internet and digital technologies have created an expectation among audiences that digital content should be free. One could imagine that if this is true, it makes leveraging digital content into some kind of revenue generating return difficult. Additionally, participants felt there has been a negative impact on audience members’ attention span for live performances, which might be due to interruptions from audience members’ ringing cell phones and texting or surfing the web on digital devices during live performances. Not surprisingly, nearly everyone agreed these interruptions were unwelcome.

For those participants who are not involved in social media, it doesn’t appear that the lack of participation is due to lack of interest or monetary reasons (except when it comes to concern about the continued resources that would be necessary to maintain a successful social media profile of campaign); rather, it appears to be more an issue of staffing – the organizations don’t believe they have staff with the skills/knowledge to begin using social media. Currently, participant websites are maintained by volunteers (9%), paid contractors (23%), part-time employees (18%) and fulltime employees (50%).

Although 69% reported that individual employees have a professional page on a social media site that is used on behalf of the organization, the majority of participants do not have written rules on how employees present themselves on line; do not restrict websites to employees in the workplace; and do not provide training on what the organization considers acceptable uses of internet, social media and other technologies. Shockingly, only 68% actively moderate or otherwise monitor user comments on their website.

Certainly the results of the survey indicate that although the participants may not necessarily feel they have the resources to support internet and digital presence, the majority feel that the capability offered by the internet and social media platforms is very important to the furtherance of their missions.

The survey produced a lot of interesting and encouraging data. MALC was pleased to see the benefits that have been realized by the participants, but can’t help but think of some possible legal pitfalls. The
About Us

The Museum and Arts Committee is within the Section of Science & Technology Law, one of 22 sections within the American Bar Association.
http://tinyurl.com/scitechmac010

Our committee undertakes a variety of projects related to all types of museums and all types of art that are being affected by new developments. Naturally, this requires an appreciation for how those institutions and communities function in general. The Committee thus welcomes active participation from those involved in museums or the arts. In addition to attorneys and law students, membership is also open to non-attorneys who may join as Associates at:
http://tinyurl.com/scitechmac011

Current projects the Committee is exploring include authenticating artwork, collecting digital forms of art, digitization for archival and commercial purposes, and copyright issues in ownership, derivative use, and online distribution.

(Survey, Continued from page 3)

Committee encourages its attorney members to work with their clients (arts organizations and other cultural institutions) to turn their attention to producing written policies for their employees and volunteers on internet and digital technology uses; to consider trainings for employees and volunteers on proper usage of the internet and digital technologies on the institution’s behalf; and to monitor their online presence more closely in order to catch potential issues before they become problematic.

This article did not discuss the entirety of the survey results and there are many other findings which our audience may find interesting. We encourage you to check out the survey and the full report here to find out more on how arts organizations are using and dealing with the internet and digital technologies, including topics on funding and specifics on social media platforms used and web trafficking.

GET INVOLVED!

NEWSLETTER: We’re currently accepting submissions for the Spring 2013 Newsletter. Please email submissions, suggestions for topics you would like to see covered and/or questions to Barron Oda, our Newsletter Editor, at boda@hawaii.edu.

WEBSITE: We are looking for volunteers to help maintain our website so it is both up to date and interesting. If interested (even if still unsure) contact Gil Whittemore, gilwhittem@aol.com for more information.

MOBILE MEDIA: The Mobile Media revolution is the theme of the Section’s work this year. If you have suggestions for ways to explore how mobile media is posing new legal issues for museums, contact Gil Whittemore at gilwhittem@aol.com.

SPRING 2013 HOT TOPIC: PHOTOGRAPHING EXHIBITIONS: Visitors’ increased use of small but powerful digital cameras raises new concerns for museums, for example regarding copyright or privacy of other visitors. We would like to develop a resource for museums that includes documents such as sample agreements, museum policies, analyses of applicable law. If interested, contact Katherine Lewis at ktlewis864@gmail.com.

LIAISON: A major goal of the Committee is to act as a liaison between the museum/arts community and the legal profession. If you know of national, regional or local museum/arts groups we should be contacting, send an e-mail to gilwhittem@aol.com.

SUGGESTION BOX: We’re currently accepting suggestions for additional legal topics that would be helpful to museum audiences. Please email suggestions to ktlewis864@gmail.com.
Upcoming Events

NEW ENGLAND MUSEUM ASSOCIATION
Lunch With NEMA – Legal Issues in Museums
Wednesday, February 27, 2013, Noon-1pm | Web Conference

Gilbert F. Whittemore and Katherine E. Lewis (Moderator) will host the Committee's first web conference on Legal Issues in Museums, with guest panelist Mark Gold, Attorney, Parese, Sabin, Smith & Gold, LLP, MA. Similar to the format of the in-person panels the Committee hosts, this Lunch with NEMA web conference will be a “stump the lawyer” session in which the audience is invited to ask the panel questions of general interest on any topic.

THE LAWYERS’ COMMITTEE FOR CULTURAL HERITAGE PRESERVATION & DEPaul UNIVERSITY COLLEGE OF LAW
National Cultural Heritage Law Moot Court Competition
February 22-23, 2013 | Chicago, IL
http://www.law.depaul.edu/chmoot/

This year's problem focuses on the Native American Graves Protection & Repatriation Act (NAGPRA), specifically issues of conflicting ownership interest in burial remains and funerary objects found on private property but within the outer boundaries of a tribal reservation, bearing no connection to the tribe claiming ownership. Vice Chair, Katherine E. Lewis, volunteered to grade student briefs and judge the competition.

AMERICAN ALLIANCE OF MUSEUMS
Museum Advocacy Day 2013
February 25-26, 2013 | Washington, DC.
http://www.aam-us.org/advocacy/museums-advocacy-day

AAM is working to unite the countries museums from art museums to zoos to make a broader impact. Congress is considering cutting the charitable deduction and AAM is fighting make sure they know how important charitable deduction are to the museum community.

THE LAWYERS’ COMMITTEE FOR CULTURAL HERITAGE PRESERVATION
Syrian Cultural Heritage in the Crossfire: Past, Present and Continuity
Wednesday, March 13, 2013, 12:30pm | Penn Museum, Philadelphia, PA
http://www.culturalheritagelaw.org/events?eventId=601707&EventViewMode=EventDetails

Speaker, Salam Al Kuntar, a visiting assistant professor in the Department of Anthropology at the University of Pennsylvania, will be speaking to the current threat to cultural heritage sites in Syria as the conflict between regime militias and armed rebels continues throughout Syria.

MUSEUMS AND THE WEB, LLC, FOUNDED BY ARCHIVES & MUSEUMS INFORMATICS
MW2013: Museums and The Web 2013
April 17-20, 2013 | Portland, OR
http://mw2013.museumsandtheweb.com

Museums and the Web has is an annual conference featuring advanced research and exemplary applications of digital practice for cultural, natural and scientific heritage.