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Abstract proposal

All Square? Questioning the Efficiency of Image Reproduction Policies in Italian State Museums

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In the context of rapidly advancing digital technologies, museums managing digital collections face complex legal hurdles. A significant portion of the challenges arises from the copyright status of collections, which can substantially restrict access and usage. The literature on cultural economics has long debated the rationale (Dreyfuss & Ng, 2019) and the role of copyright law in the cultural economy (Towse, 2008), particularly its role in protecting authors and artists while incentivizing their work (Burk, 2012). At the same time, scholars have questioned whether copyright restrictions may limit cultural access and public engagement with cultural heritage, advocating for a clearer balance between copyright protection and public access (Sappa, 2023; Wallace & Euler, 2020). More broadly, they have shed light on the collateral costs of intellectual property (Boldrin & Levine, 2002) and warned against a reckless private encroachment of knowledge and digital commons (Boyle, 2008; Dulong de Rosnay, M. & Stalder, F., 2020; Hess, C., & Ostrom, E., 2007; Resta, 2013). Increasingly, they have supported their research with empirical data, particularly in the digital context (Peukert & Windisch, 2024; Wallace, 2022).

Beyond copyright, other legal domains, such as cultural heritage laws, impose additional restrictions on the use and reproduction of cultural heritage held in museum collections. Italy provides a notable but not isolated (e.g., France and Greece) example of this multifaceted legal framework, where museums must navigate a complex and arguably efficient authorization system under Articles 107-108 of D.Lgs. 42/2004, the Italian Code of Cultural Heritage and Landscape (ItCCHL). As currently framed, enforced, and often understood within a growing narrative of heritage economic enhancement - or monetization (Tarasco & Miccù, 2022) - this system, while arguably crucial for the economic sustainability of museums, may conflict with the expanding

consensus on safeguarding a broader right for all to participate in cultural life (Dore & Priora, 2024; Manacorda, 2021; Modolo, 2023) and even miss the chance to increase their economic performance (Fantini, 2023). This framework risks becoming a surrogate for intellectual property law, wielding its power without inherent limitations (Wallace, 2023) and further complicating the already complex landscape of museum practices, leading to a “Schrödinger’s copyright” effect (McCarthy, 2024). Moreover, it may negatively impact market functioning and inadvertently infringe upon the constitutional freedom to conduct a business (Sappa, 2024).

Despite the growing interest among academics, professionals and public policy advocates, and the upsurge of a lively debate following the stringent interpretation of the ItCCHL, enactment of unsteady secondary legislation (d.m.161/2023 and d.m. 108/2024) paired with a quick turnaround of case law (Trib. Firenze, 2023a, 2023b; Trib. Venezia, 2022), the issue has been underexplored from a law and economics perspective, for instance questioning the efficiency of the now heavily reinforced Italian image reproduction policies. Yet, this perspective is crucial for comparing the benefits, especially in revenue generation, with the costs, in terms of resources and time, of the ItCCHL’s compound mechanisms, already questioned by the Italian Court of Audit (2022 and 2023), which this study aims to address.

This study emerges from ongoing research on cultural management and the dilemma of Open Culture (Della Lucia et al., 2024), defined as “the freedom to access, use, and modify culture, subject, at most, to measures that preserve provenance and openness” (OKFN, 2023). Seizing the opportunity to undertake empirical research in this field (Dore, 2024), it provides a theoretical framework and rationale to complete a specific research direction to design and implement an Open Culture Business Model Canvas (OCBMC) for managing digital collections within Italian state museums. Ultimately, this work seeks to advance knowledge and suggest tools for managing collections under museums’ technical and scientific autonomy, addressing challenges related to achieving long-term sustainability and responding to society’s need for accessible and reusable digital collections.

To achieve the study’s objectives, the authors employ a case study approach, focusing on 18 selected Italian state museums with special autonomy (Article 8 of Ministerial Decree 23.12.2014 as amended), sampled from 59 museums. Given their unique organizational nature - featuring scientific, financial, accounting, and organizational autonomy - they represent an ideal target for analyzing public cultural heritage institutions’ ambivalent approach to Open Culture

Management (OCM) and discussing the efficiency in the context of museums (Bertacchini et al., 2018; Guccio et al., 2020).

The authors conduct a content analysis of the museums' data on authorizations issued for the reproduction of cultural heritage images for a fee, as well as the museums' financial statements, all hosted on the museums' transparency portals, over a six-year period. These secondary data are analyzed using a thematic approach (Braun & Clarke, 2021), with findings further validated through primary data obtained from semi-structured interviews with managers of the sampled museums. The study concludes that the current application of the ItCCHL authorization system is largely inefficient, with costs significantly outweighing benefits, thus also seriously affecting the already complicated trade-off between the financial and educational value of digital collections (Huang, 2020).

Keywords: State museums, Italy, Image reproduction, Authorisation system, Costs, Inefficiency

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