



IPR and Cultural Assets Advice Sheet 3

January 2011

## Exploiting the Museum's IPR and Cultural Assets for Financial Benefit

- **What is this advice sheet about?**

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

- **Who is it for?**

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

- **Why is it useful?**

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

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

© York Museums Trust, 2011. Some Rights Reserved. This resource is licensed under a Creative Commons Attribution Non Commercial Share Alike Licence



This resource has been developed by Naomi Korn Copyright Consultancy on behalf of Renaissance Yorkshire's funded project "Effective Management of Intellectual Property Rights (IPR) and Cultural Assets in Museums Across the Yorkshire Region". To the best of the authors' knowledge (Naomi Korn and Bernard Horrocks), all information supplied within this advice sheet is accurate at the date at which the resource was written. The authors accept no liability for any consequences arising from the misuse or misinterpretation of any of this information. None of the information contained within this advice sheet should be construed as legal guidance or legal advice. In the event that such advice is required, legal counsel – preferably the advice of a specialist intellectual property rights lawyer – should always be sought.

## Related Topics

*Advice Sheet 1  
Guidance on IPR in Museum Image Collections*

*Advice Sheet 2  
Working with film and television productions at your museum*

*Advice Sheet 4  
Securing IPR as part of good museum collections management and documentation*

*Advice Sheet 5  
Further information on Intellectual Property Rights (IPR)*

- **What do I do first?**

**Consider all the different areas** for potential exploitation. Remember, the museum could always do a like-for-like swap of facilities, or pool resources to save money (this advice sheet is as much about saving money as making it). It might be helpful to use the following headings to guide you in your brainstorm:

### 1. Facilities

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

For example:

- Does the museum have photographic or other specialist equipment such as x-ray machines or conservation studios that could be potentially hired out to other organisations?
- Can the museum provide catering facilities or other facilities to the local community, such as schools, the church etc?

© York Museums Trust, 2011. Some Rights Reserved. This resource is licensed under a Creative Commons Attribution Non Commercial Share Alike Licence



This resource has been developed by Naomi Korn Copyright Consultancy on behalf of Renaissance Yorkshire's funded project "Effective Management of Intellectual Property Rights (IPR) and Cultural Assets in Museums Across the Yorkshire Region". To the best of the authors' knowledge (Naomi Korn and Bernard Horrocks), all information supplied within this advice sheet is accurate at the date at which the resource was written. The authors accept no liability for any consequences arising from the misuse or misinterpretation of any of this information. None of the information contained within this advice sheet should be construed as legal guidance or legal advice. In the event that such advice is required, legal counsel – preferably the advice of a specialist intellectual property rights lawyer – should always be sought.

- Are there conference or meetings rooms within the museum venue that could be hired out on a commercial basis?
- Try to imagine a venue's potential not only, for example, as another meeting space but also, perhaps as a filming location.
- Are there attractive or unusual areas within the museum or its grounds that could be used for weddings, civil partnership ceremonies or corporate functions?
- Can specific or tailored tours of the museum be offered?

## 2. Expertise and 'know-how'

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

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

## 3. Confidential information and databases

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

© York Museums Trust, 2011. Some Rights Reserved. This resource is licensed under a Creative Commons Attribution Non Commercial Share Alike Licence



This resource has been developed by Naomi Korn Copyright Consultancy on behalf of Renaissance Yorkshire's funded project "Effective Management of Intellectual Property Rights (IPR) and Cultural Assets in Museums Across the Yorkshire Region". To the best of the authors' knowledge (Naomi Korn and Bernard Horrocks), all information supplied within this advice sheet is accurate at the date at which the resource was written. The authors accept no liability for any consequences arising from the misuse or misinterpretation of any of this information. None of the information contained within this advice sheet should be construed as legal guidance or legal advice. In the event that such advice is required, legal counsel – preferably the advice of a specialist intellectual property rights lawyer – should always be sought.

#### 4. Your location

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

#### 5. Your collection

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

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

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

#### 6. Friends / membership / supporters / associates / sponsorship

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

© York Museums Trust, 2011. Some Rights Reserved. This resource is licensed under a Creative Commons Attribution Non Commercial Share Alike Licence



This resource has been developed by Naomi Korn Copyright Consultancy on behalf of Renaissance Yorkshire's funded project "Effective Management of Intellectual Property Rights (IPR) and Cultural Assets in Museums Across the Yorkshire Region". To the best of the authors' knowledge (Naomi Korn and Bernard Horrocks), all information supplied within this advice sheet is accurate at the date at which the resource was written. The authors accept no liability for any consequences arising from the misuse or misinterpretation of any of this information. None of the information contained within this advice sheet should be construed as legal guidance or legal advice. In the event that such advice is required, legal counsel – preferably the advice of a specialist intellectual property rights lawyer – should always be sought.

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

## 7. Intellectual property

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

**Copyright** – could the museum make content available commercially? How about the museum's images, research, captions, publications, archive? If you hold works whose copyright belongs to a third party, could you act as their licensing agent, e.g. making their works available to publishers and other audiences on a 50/50 basis? Consider whether you can exploit rights enjoyed by museum databases or publications.

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

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

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

© York Museums Trust, 2011. Some Rights Reserved. This resource is licensed under a Creative Commons Attribution Non Commercial Share Alike Licence



This resource has been developed by Naomi Korn Copyright Consultancy on behalf of Renaissance Yorkshire's funded project "Effective Management of Intellectual Property Rights (IPR) and Cultural Assets in Museums Across the Yorkshire Region". To the best of the authors' knowledge (Naomi Korn and Bernard Horrocks), all information supplied within this advice sheet is accurate at the date at which the resource was written. The authors accept no liability for any consequences arising from the misuse or misinterpretation of any of this information. None of the information contained within this advice sheet should be construed as legal guidance or legal advice. In the event that such advice is required, legal counsel – preferably the advice of a specialist intellectual property rights lawyer – should always be sought.

1. Carry out an IP Audit – what rights does the museum own and which ones can be exploited?
2. Consider bringing in a licensing agent to help the museum understand the potential of your assets and introduce you to potential commercial partners.
3. Develop your brand so that it reflects the core values of the organization/works associated with your museum etc. If the museum is bringing in a third party to design a brand for you, make sure that they assign to the museum any copyright and associated rights in writing BEFORE they start work.
4. Consider the costs associated with registration of the museum brand as a trade mark.
5. Once the museum has been introduced to potential commercial partners, develop a fee structure in association with its brand. There are a number of options, such as advance fees, flat fees, royalty payments etc. The Association of Cultural Enterprise (ACE) which is a trade organization will be able to provide further advice about this <http://www.acenterprises.org.uk/>

## 7. Checklist:

1. **Check that the museum has a governance structure to fully facilitate commercial activities. For example, if the museum is an unincorporated body it will not have the necessary legal status to enter into legal agreements. You can seek further advice from the Charity Commission <http://www.charity-commission.gov.uk/>. Similarly, if the museum is local authority funded, you should discuss your plans with them.**
2. **Put together a list of ideas with the greatest potential.**
3. **Share this with interested parties, as well as museum colleagues, in the hope that some of them can be pushed forward for real return.**
4. **Develop a clear business plan outlining the costs and benefits of any ideas that the museum wishes to drive forward, timescales, resources and possible pricing models. Don't forget that you may be required to charge VAT and there may be other tax issues you will need to consider. Contact HMRC for further information <http://www.hmrc.gov.uk/vat/index.htm>**

© York Museums Trust, 2011. Some Rights Reserved. This resource is licensed under a Creative Commons Attribution Non Commercial Share Alike Licence



This resource has been developed by Naomi Korn Copyright Consultancy on behalf of Renaissance Yorkshire's funded project "Effective Management of Intellectual Property Rights (IPR) and Cultural Assets in Museums Across the Yorkshire Region". To the best of the authors' knowledge (Naomi Korn and Bernard Horrocks), all information supplied within this advice sheet is accurate at the date at which the resource was written. The authors accept no liability for any consequences arising from the misuse or misinterpretation of any of this information. None of the information contained within this advice sheet should be construed as legal guidance or legal advice. In the event that such advice is required, legal counsel – preferably the advice of a specialist intellectual property rights lawyer – should always be sought.

**5. Ensure colleagues are in the position of being able to respond in a quick and professional way.**

## **8. Further resources**

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

- Advice Sheet 7: *Filming Contract Template*
- Advice Sheet 6: *Reproduction Fees for Filming and Image Licensing*
- Advice Sheet 8: *Terms and Conditions for Image Licensing*

## **9. Final point to remember**

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

© York Museums Trust, 2011. Some Rights Reserved. This resource is licensed under a Creative Commons Attribution Non Commercial Share Alike Licence



This resource has been developed by Naomi Korn Copyright Consultancy on behalf of Renaissance Yorkshire's funded project "Effective Management of Intellectual Property Rights (IPR) and Cultural Assets in Museums Across the Yorkshire Region". To the best of the authors' knowledge (Naomi Korn and Bernard Horrocks), all information supplied within this advice sheet is accurate at the date at which the resource was written. The authors accept no liability for any consequences arising from the misuse or misinterpretation of any of this information. None of the information contained within this advice sheet should be construed as legal guidance or legal advice. In the event that such advice is required, legal counsel – preferably the advice of a specialist intellectual property rights lawyer – should always be sought.