

DSM Directive Survey

Questions for Cultural Heritage Institutions (CHIs)

This document extracts only the survey questions routed to Cultural Heritage Institutions (CHIs) from Sections 2.1, 2.2 and 2.5 of the DG CNECT DSM Directive evaluation survey (V5.0, 21/04/2026). Question numbers, evaluation tags and answer options are preserved as in the source. Where a question is also asked of other stakeholders, that has no effect on what a CHI sees — the questions are reproduced as they appear to a CHI respondent.

Section 2.1: Text and data mining (TDM), teaching exception, preservation exception

Use of TDM, educational and preservation exceptions (Articles 3–6).

For the next few questions please note that the Directive provides for an exception for text and data mining activities conducted for the purposes of scientific research (Article 3) and a general text and data mining exception (Article 4). Rightholders may reserve their rights and exclude their content from the scope of the latter exception.

Q1. In your experience, to what extent has the DSM Directive improved the following:

- a) Digital access to content across borders
- b) Legal certainty for the use of copyright-protected content in teaching
- c) Legal certainty for text and data mining activities
- d) Use of digital content by cultural heritage institutions

Grid question with the following answer options:

1. Significantly improved
2. Somewhat improved
3. No change
4. Somewhat deteriorated
5. Significantly deteriorated
6. I don't know

Q2. Have you relied on the TDM exception for scientific research purposes (Article 3)?

Instructions: Please select one option.

1. Yes
2. No
3. I don't know

Q3. To what extent does the TDM exception for scientific research purposes meet your needs?

Instructions: Please select one option.

1. To a great extent
2. To some extent
3. To a little extent
4. Not at all
5. I don't know

Q3_1 [If Q3=1,2,3,4] Can you please elaborate on your response?

OPEN QUESTION

Q4. Have you relied on the general TDM exception (Article 4) for your activities?

Instructions: Please select one option.

1. Yes
2. No
3. I don't know

Q5. To what extent does the general TDM exception meet your needs?

Instructions: Please select one option.

1. To a great extent
2. To some extent
3. To a little extent
4. Not at all
5. I don't know

Q5_1 [If Q5=1,2,3,4] Can you please elaborate on your response?

OPEN QUESTION

Q6. Have you relied on the TDM exceptions in activities related to the development of large language models / AI models?

Instructions: Please select one option.

1. Yes
2. No
3. I don't know

Q6_1 [If Q6=1] If yes, can you please indicate concrete cases and elaborate on the benefits / limitations of the TDM exceptions?

OPEN QUESTION

Q7. [If Q2=yes and/or Q4=yes] Have you faced any barriers in making use of the TDM exceptions?

Instructions: Please select all applicable options.

1. I have not faced any barriers
2. Legal uncertainty about my use case
3. Difficulties to obtain lawful access to the works
4. Technical restrictions and Technological Protection Measures (TPMs) preventing TDM on content to which I have lawful access
5. TDM not allowed under licence or contract
6. Difficulties to identify rights reservations expressed by rightholders
7. High volume of content for which rights were reserved ('opted out')
8. Other, please specify

Q7_1 [If Q7=4,5] Can you quantify the amount of content where the rightholder has implemented (technical) measures to prevent mining of content?

OPEN QUESTION

Q16. What unexpected benefits or challenges have you experienced in relation to the introduction of the TDM exceptions?

OPEN QUESTION

For the next few questions please note that Article 6 of the Directive provides for a copyright exception for cultural heritage institutions to make copies of any works that are permanently in their collections in order to preserve them.

Q24. To what extent does the preservation exception help your organisation meet its objectives?

Instructions: Please select one option.

1. To a great extent
2. To some extent
3. To a limited extent
4. Not at all
5. I don't know

Q24_1 [If Q24=3,4] Can you please elaborate on your response and highlight any shortcomings?

OPEN QUESTION

Q25. Do you experience any of the following challenges when applying the preservation exception?

Instructions: Please select all that apply.

1. I do not experience any challenges
2. Uncertainty over the works / other subject matter covered by the exception
3. Uncertainty over the uses allowed under the exception
4. Other (please specify)

Q26. Do you experience any of the following benefits when applying the preservation exception?

Instructions: Please select all that apply.

1. Greater legal certainty
2. Reduced need for licensing
3. Better preservation of works
4. None of the above
5. I don't know
6. Other (please specify)

For the next few questions please note that Article 14 concerns works of visual art in the public domain. It provides that when a work is in the public domain, reproductions of the work are also not protected, unless the reproduction itself is original.

Q27. To what extent has Article 14 provided you with legal certainty on the reproduction of public domain visual artworks?

Instructions: Please select one option.

1. To a great extent
2. To some extent
3. To a little extent
4. Not at all
5. I don't know

Q27_1 [If Q27=3,4] Can you please elaborate on your response?

OPEN QUESTION

Q28. To what extent has Article 14 enabled you to increase the reuse / dissemination of public domain visual artworks?

Instructions: Please select one option.

1. To a great extent
2. To some extent

3. To a little extent
4. Not at all
5. I don't know

Q28_1 [If Q28=3,4] Can you please elaborate on your response?

OPEN QUESTION

Section 2.2: Licensing mechanisms (ECL, OOCW, VoD)

The section aims to assess the impact of the Directive on the functioning and use of collective licensing with extended effect, rules on out-of-commerce works, and the Video on Demand negotiation mechanism.

Q29. Have you entered into a licence with a CMO for use of out-of-commerce works?

Instructions: Please select one option.

1. Yes
2. No
3. I don't know

Q29_1 [If Q29=No] Please explain your reasons for not entering an OOCW licence (e.g., the relevant CMO could not be identified, the CMO refused to negotiate, lack of funding, etc.).

OPEN QUESTION

Q30. Has your institution relied on the exception for the use of OOCWs under Art. 8(2) of the Directive (the fallback mechanism)?

Instructions: Please select one option.

1. Yes
2. No
3. I don't know

Q31. [If Q29=Yes or if Q30=Yes] How many OOCWs have you made available online since the implementation of the Directive in your country? Where possible, please differentiate between the use of licensing and the fall-back exception. (If available, please share visitor / usage statistics for the OOCWs you have made available online).

OPEN QUESTION

Q32. [If Q29=Yes or if Q30=Yes] What types of works have you primarily digitised and made available under this mechanism?

Instructions: Please select all that apply.

1. Books
2. Periodicals (e.g., journals, newspapers, and magazines)
3. Ephemera (e.g., posters, leaflets, pamphlets, newsletters, brochures)
4. Musical works
5. Sound recordings
6. Audiovisual works
7. Photographs
8. Video games
9. Other (please specify)

Q33. [If Q29=Yes or if Q30=Yes] What are the main challenges that you have encountered in making use of the OOCWs mechanism?

Instructions: Please select all that apply.

1. Difficulty with CMO negotiations
2. Burdensome reasonable-efforts needed to determine whether works are out of commerce
3. Problems with cross-border application
4. Handling opt-outs from rightholders
5. None of the above
6. I don't know
7. Other (please specify)

Q34. [If Q29=Yes or if Q30=Yes] What are the main benefits that you have encountered in making use of the OOCWs mechanism?

Instructions: Please select all that apply.

1. Wider public access to works
2. Easier cross-border dissemination
3. Simplified negotiations
4. Reduced transaction costs for clearing individual works
5. None of the above
6. I don't know
7. Other (please specify)

Q35. [If Q29=Yes or if Q30=Yes] What costs associated with using this mechanism have you incurred? Please distinguish, if possible, between licence fees and administrative costs.

OPEN QUESTION

Q36. How have the rules of the Directive affected your activities of digitisation and dissemination of out-of-commerce works?

Instructions: Please select one option.

1. Very positively impacted
2. Somewhat positively impacted
3. No impact
4. Somewhat negatively impacted
5. Very negatively impacted

OPEN QUESTION

Q38. To what extent has the mechanism led to increased legal uses of out-of-commerce works compared to the situation before transposition of the DSM Directive?

Instructions: Please select one option.

1. To a great extent
2. To some extent
3. To a little extent
4. Not at all
5. I don't know

Q40. In addition to information included on the EUIPO portal, how has your organisation ensured that rightholders are informed about the use of their works under a OOCWs licence or exception, including about the possibility to exclude their works from such use?

1. OPEN QUESTION
2. No additional information

Q41. Approximately how many rightholders have informed you that they wish to exercise their right to exclude their works / other subject matter from the OOCWs mechanism since

transposition of the Directive? Please provide details on whether exclusions have focused on entire catalogues or specific works.

1. OPEN QUESTION
2. None

For the next few questions please note that Article 8 concerns a mechanism for cultural heritage institutions (CHIs) to make available out-of-commerce works (works that are no longer commercially available through their usual sales channels) from their collections. Article 12 provides that, within well-defined areas of use, where individual authorisation from rightholders is impractical, licensing agreements concluded by collective management organisations may be extended to apply to rightholders who have not authorised that collective management organisation to represent them. Rightholders have a right to exclude their works from both the out-of-commerce mechanism and licences with extended effect.

Q48. What unexpected benefits or challenges have you experienced in relation to the Article 8 (out-of-commerce mechanisms) and / or Article 12 (extended collective licensing) mechanisms?

OPEN QUESTION

Q49. Do you consider that out-of-commerce works made available by CHIs under the conditions of the Directive should be used for AI training purposes? Please explain any measures that you have taken to limit or prevent such uses of out-of-commerce works (e.g. licensing conditions, technological protection measures).

OPEN QUESTION

Q50. Have you participated in any pre-implementation and / or subsequent sector-specific dialogues organised by Member States on the OOCW mechanism?

Instructions: Please select one option.

1. Yes
2. No
3. I don't know

Q50_1 [If Q50=Yes] To what extent did these dialogues improve the following:

- a) the relevance and usability of the mechanism
- b) effective safeguards for rightholders

Grid question with the following answer options:

1. To a great extent
2. To some extent
3. To a little extent
4. Not at all
5. I don't know

Section 2.5: Other impacts

The following questions concern the value added by the Directive, as an EU-level intervention, compared to the pre-existing situation in the Member States. Please respond based on your direct experience.

Q126. Based on your experience, please indicate one key benefit or value added by the DSM Directive, if any?

OPEN QUESTION

The following questions concern the efficiency of the Directive and aim to assess the incurred costs of the Directive. Please respond based on your direct experience.

Q127. To what extent has your organisation incurred compliance costs because of the Directive?

Instructions: Please select one option.

1. To a great extent
2. To some extent
3. To a little extent
4. Not at all
5. I don't know

Q128. What is the nature and level of those compliance costs and in relation to which of the Directive's provisions are they incurred?

OPEN QUESTION

The following questions concern the coherence of the Directive and aim to assess to what extent the provisions of the Directive are coherent with other national or international laws.

Q129. How well do the DSM Directive's provisions align with other relevant EU legislation (e.g., GDPR, AI Act, Digital Services Act, Orphan Works Directive)?

Instructions: with 1 being not at all aligned and 5 being fully aligned.

1. Slider: 1 2 3 4 5

Q129_1 [If Q129=1 or 2] Please specify any particular laws where you have noticed alignment or conflict.

OPEN QUESTION

Q130. Have you experienced any legal or practical tensions or conflicts between the DSM Directive as implemented and other national laws in your country?

Instructions: Please select one option.

1. Yes
2. No
3. I don't know

Q130_1 [If Q130=Yes] Please describe the tension or conflict and its impact.

OPEN QUESTION