

PHOTOGRAPHIC PERMISSIONS

FOR THE REPRODUCTION AND PHOTOGRAPHY OF LOANS TO EXHIBITIONS

It is in the interests of all museums and galleries that mount exhibitions to facilitate the process whereby permission is granted for the reproduction and photography of works borrowed for exhibition. As all involved in mounting exhibitions are aware, the process of obtaining permissions and photographic material can at present be time-consuming and difficult, as most museums require detailed applications to be made to the appropriate department after agreement to lend works has been granted. Much time would be saved by organisers of exhibitions if it were possible to reach a common agreement among major museums on ways of simplifying the process of obtaining permissions and the required images, i.e. photographs, digital images and/or transparencies.

In some cases the owner of the work of art may not be the copyright holder, and permission will be required from the latter. In these cases there is probably little possibility of simplifying rights clearance procedures although when the copyright holder is known by the Lender this should be conveyed to the Borrower. This paper focuses on permissions for works out of copyright, and puts forward a number of proposals for discussions in the hope that agreement might be possible.

1 Categories of Reproduction

- 1.1** In attempting to streamline and simplify the process of granting permissions, it is important to distinguish between different categories of reproduction and their purposes. Certain kinds of reproduction - such as the reproduction of works of art in the exhibition catalogue - are an essential requirement of an exhibition and directly contribute to its scholarly purpose; others are required for educational and interpretative purposes and in order to publicise and promote the exhibition in print and electronic media; still others serve a subordinate and often commercial function, while still perhaps serving to support the exhibition financially.
- 1.2** In seeking and granting permissions it seems right to distinguish between such categories of reproduction, and while allowing free and uninhibited reproduction for some purposes, to impose restrictions and charges with regard to others. The purpose of these guidelines is to try to clarify some of these distinctions and, for those categories of reproduction which directly support the exhibition, to propose ways of facilitating the granting of permission. While not necessarily covering every case, the following represent the main categories, with proposals for how they may be treated.
- 1.3** Catalogue Reproduction
In the case of most exhibitions, permission will be required to reproduce the works exhibited in the accompanying catalogue or publications, and possibly in foreign language editions. Such permission should be granted, without charge, when the loan to the exhibition is agreed. In order to simplify procedures for the organisers, it is desirable that such permission is granted on the signing of the loan agreement. It is hereby proposed that Lenders should regard the loan agreement as a formal request and permit and no further application should be required. However, should the Borrower wish to reproduce a loan on the cover of the catalogue or as a banner, or other special use apart from education and press and publicity related to the exhibition, specific permission from the Lender should be requested.

- 1.4 Reproductions for Press, Publicity and Advertising
Exhibition organisers will wish to use images of works to publicise the exhibition, on posters, publicity leaflets, etc. and in media advertisements. They will also wish to provide images to the press for reproduction in reviews and articles, sometimes as transparencies, most often now in digital format. As with 1 above, it is proposed that such permission is granted, without charge, on the signing of the loan agreement, and that no further application should be required. However, as a courtesy to the Lender, it is also suggested that the Borrower should seek specific permission for the use of the Lender's image in a major or highly visible way, such as on the exhibition poster, on carrier bags, etc. Such permission should not be unreasonably withheld. Publicity posters may also be offered for sale, in which case specific permission should be sought (see 1.6 below).
- 1.5 Education Programmes
Reproduction of images may be required in connection with lecture programmes and other educational events related to the exhibition and for associated publicity. Photography and filming of works (consistent with the Lender's conservation requirements), or images, may also be required for educational materials, slides, films or videos produced to accompany the exhibition. Again, it is proposed that such permission is granted, without charge, on the signing of the loan agreement, and that no further application should be required.
- 1.6 Commercial Reproduction
Exhibition organisers may wish to produce for sale postcards, posters, prints, slides, etc, of exhibited works, or other merchandise incorporating images. The exhibition video may also be offered for sale. It is proposed that a separate application should be made with regard to all such commercial items. Permission should not be unreasonably withheld, and terms and fees should be agreed between the Lender and the publisher.
- 1.7 Multimedia
Some exhibition organisers have begun to produce, in addition to printed catalogues or electronic media. They may also wish to reproduce loans on the Internet. Such digital reproduction is growing, and Lenders are increasingly requested to grant permission for the digital reproduction of their works. It is proposed that images suitable for lectures or exhibition management (1024x768 pixels) be included as part of the standard permission. Specific permission should be sought for reproduction at higher resolutions.

Photography and Filming

- 1.1 Exhibition organisers may wish to photograph and film exhibits and installations for record and educational purposes, and to allow the Press and TV to photograph and film them for publicity purposes. It is proposed that such permission is granted by the Lender, without charge, on the signing of the loan agreement, provided the Borrower undertakes to supervise all such photography and filming and observe the Lender's conservation conditions regarding lighting etc.
- 1.2 While historically photography by the public has been prohibited in special exhibitions, with the number of cell phones now available, and the desire of many exhibition organizers' press offices to make the works of art available for personal use by visitors, it is thought that, unless a Lender refuses to allow the public to photograph the work, solely for personal use and without the use of tripod, that permission be considered. In the event that one Lender to an exhibition refuses such permission, photography by the public will be prohibited.

2 Provision of Images

- 2.1** Exhibition organisers will usually require images of loans for registration purposes and for reproduction, and will order these from the Lender. Charges and hire fees vary from museum to museum, and in certain circumstances may be waived altogether. Suggested guidelines are to charge no fees for digital images without guide prints and charge a nominal fee for the loan of transparencies or provision of guide prints.

3 Reproduction Conditions

- 3.1** The Lender may impose particular conditions with regard to the reproduction and photography of their images. These conditions should, whenever possible, be provided to the Borrower with the completed and signed loan agreement.
- 3.2** The Borrower should use the credit line provided by the Lender on any reproduction of the loan. The Borrower should also endeavour to ensure that reproductions in the press are also appropriately credited.
- 3.3** Some museums and galleries impose various restrictions on the manner in which a loan is reproduced in order to protect the image from misuse, prohibiting, for example, the cropping of the image or over-printing of text. Such restrictions, however, can greatly inhibit the use of images for promotional and educational purposes. It is here proposed that, when granting reproduction permission, Lenders should impose no such restrictions, but that the borrowing institution should undertake to treat images of works of art with sensitivity and respect, and should refrain from reproducing them in any way which could be regarded as a gross misinterpretation of their character. In view of the time constraints on print production, it is also proposed that Lenders should refrain from asking to see proofs of reproductions for approval.

4 Loan Agreement

- 4.1** It is proposed that certain permissions relating to reproduction and photography should be granted on the signing of the loan agreement (see 1.3, 1.4, 1.5 and 2.1 above). For this purpose a statement should be included in the loan agreement on the following lines:

Unless permission is denied in writing at or prior to the date of this agreement, the Lender authorises the work to be:

- a)** reproduced in any exhibition related publication and any publicity, educational, audio-visual and archival material produced solely to support or record the exhibition;
- b)** photographed and filmed on the Borrower's premises under strict supervision solely for the purposes given in a) above.
- c)** reproduced on the Borrower's website at resolution of up to 1024x768 pixels (or higher in the context of a pan/zoom viewer that prohibits image downloading) solely for the purposes given in a) above.

6 Recommendations

(note: these recommendations relate only to works of art which are out of copyright).

- 6.1** Reproduction permission should be granted, without charge, on the signing of the loan agreement for the following:

- a)** The accompanying catalogue or publication (see 1.3)

b) Exhibition publicity material and reproduction by the Press for reviews and articles (nevertheless, permission should be sought for highly visible publicity items – e.g. the exhibition poster) (see 1.4).

c) Educational programmes and educational materials, slides films or videos related to the exhibition, and associated publicity (see 1.5).

d) Reproduction of works on a museum's website for low-resolution 72 dpi images.

6.2 Separate application for reproduction permission should be made for the following, and terms and fees agreed between the Lender and the publisher:

a) Postcards, posters, prints, slides, etc. of exhibited works produced for sale, and other merchandise incorporating images (see 1.6).

b) Reproduction of works in CD ROMs and on the Internet (over and above low resolution 72 dpi images).

6.3 Permission for exhibition organisers and the Press and TV to photograph and film works for educational, publicity and record purposes should be granted, without charge, on the signing of the loan agreement (subject to the Lender's conditions and proper supervision) (see 2.1).

6.4 Lenders should provide transparencies and digital images for up to one year for a nominal hire fee, and black and white photographs at cost price. Reciprocal arrangements, to further reduce costs, should be encouraged (see 3.2).

6.5 Any conditions relating to the reproduction and photography of loans should be provided by the Lender with the completed loan agreement (see 4.1).

6.6 The Borrower should use the credit line provided by the Lender on any reproduction of the loan (see 4.2)

6.7 Lenders should refrain from imposing restrictions on the manner in which a loan is reproduced (in connection with catalogue, publicity and education uses), and from asking to see proofs of reproductions for approval. Borrowers should refrain from reproducing loans in any way that could be regarded as a gross misinterpretation of their character (see 4.3).

6.8 Loan agreements should include wording granting the Borrower permission to reproduce, photograph and film the work in accordance with these guidelines (see 5.1).