

# MUSEUM & COPYRIGHT

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# **OVERVIEW OF THE CHALLENGES**



## Ban on selfie sticks extends to London and Paris museums

London's National Gallery and the Versailles Palace outside Paris have joined the growing worldwide ban on the use of selfie sticks. The sticks are used by tourists to take better photos of themselves with their phones.





# The Day the Music Burned

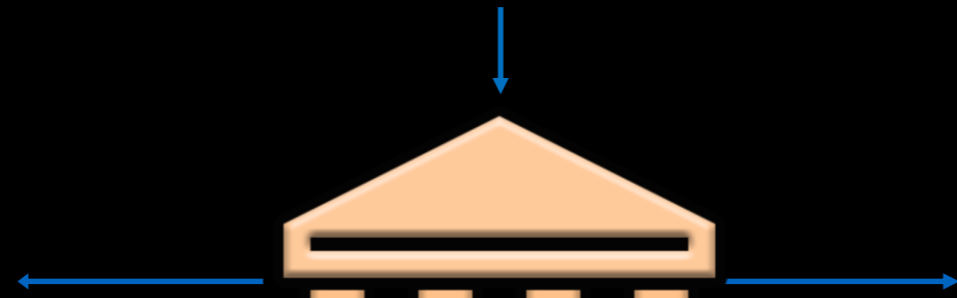
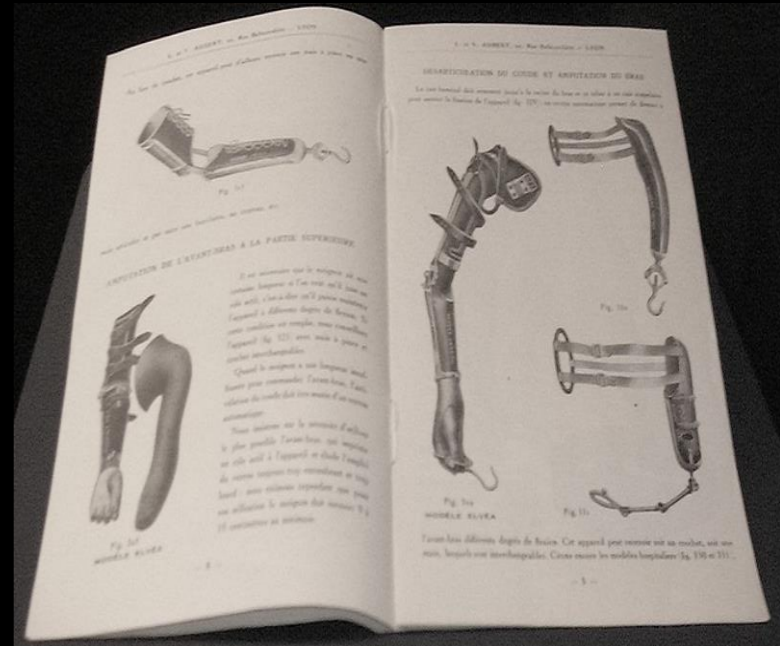
It was the biggest disaster in the history of the music business — and almost nobody knew. This is the story of the 2008 Universal fire.

By Jody Rosen



• **MUSEUMS HAVE TO CONSIDER COPYRIGHT WHEN PERFORMING THEIR MISSIONS**

• See 2007 ICOM Internal Rules and Regulations, art. 3 “A museum is a non-profit, permanent institution in the service of society and its development, open to the public, which **acquires, conserves, researches, communicates and exhibits** the tangible and intangible heritage of humanity and its environment for the purposes of **education, study and enjoyment**”.



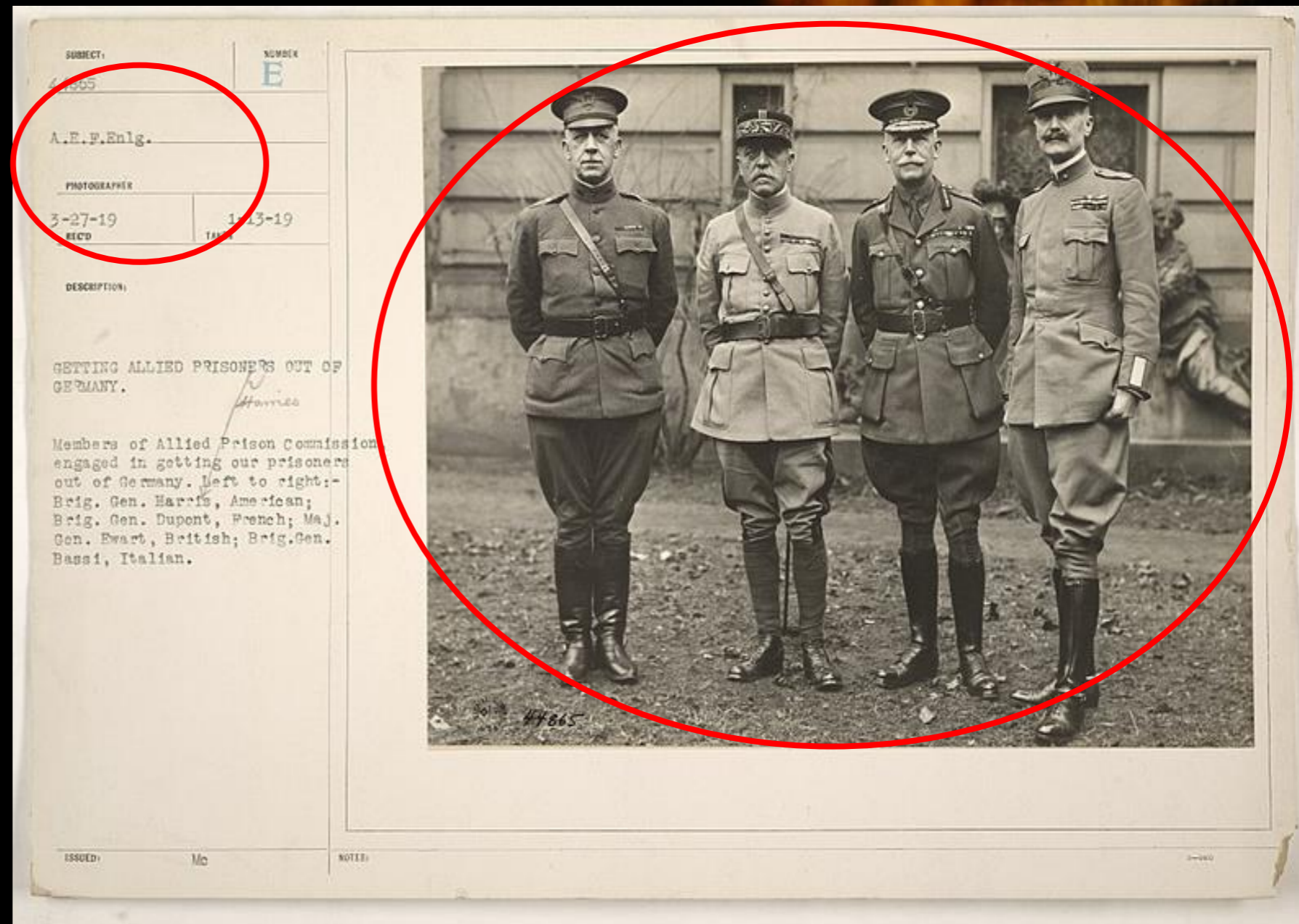




- Copyrighted works

- Public domain works

- Non copyrighted works



- When museums **do not own** the related copyrights, museums generally seek **assignments** or **licenses** from rights holders, either individually from the artists or his / her representative (family, third party or CMO)

- **Preservation of works**



- **Exhibition of works**



- **Communication of works**



- **In some case**, there are however **limitations and exceptions (L&Es)** allowing the museum to use the works without authorization of the rightholder



# REPORT ON MUSEUM PRACTICES AND CHALLENGES (SCCR/38/5)

ACQUISITION	PRESERVATION	EXHIBITION	COMMUNIC.
Copyright status Licensing practices	Archive and document Restore or replace	Onsite display Photo-shooting	Online museums Publications





## TYPOLOGY ON LIMITATIONS AND EXCEPTIONS (SCCR/38/6)

<b>COLUMN 1</b>	<b>COLUMN 2</b>	<b>COLUMN 3</b>	<b>COLUMN 4</b>
Category of Museum Function or services	Rights implicated	Elements of statutory exceptions	Elements for ongoing considerations

- **Preservation**
- **Replacement**
- **Archiving**
- **Study & research**
- **Making available on terminals**

- **Exhibition of physical works**
- **Exhibition of time-based media**
- **Photo-shooting**
- **Non-attributed works**
- **Exhibition catalogue**
- **Online exhibition**

# ZOOM INTO LATIN AMERICA AND CARIBBEAN GROUP





- **Most countries in the Latin America and Caribbean region** provide a **general exception** for private purposes and/or educational and scientific research
- **Very few countries** provide **specific exceptions** for museums, such as:
  - Chile: no authorization of the copyright holder or payment, for the “*use of a work, including phonograms, within the family circle, in educational or charitable establishments, libraries, archive centers or museums, provided that such use is not for profit*“ (Art. 71N)
- **Other countries** provide **no exceptions** for museums

## In summary

- **Most** jurisdictions do **not** provide **specific exceptions** for museums but only general exceptions
  - => Are specific exceptions for museum desirable? What kind of specific exceptions?
- Interview results revealed the **lack of awareness** towards copyright in general (including licensing practices) and exceptions among museum professionals
  - => How to raise awareness among museum professionals in your country?





**Topic: Preservation**  
(*cf.* Typology p. 6)

**Definition:** Copyright exception authorizing museums to reproduce works for preservation purposes

- **CATEGORY OF EXCEPTIONS**
- **CATEGORY OF BENEFICIARIES**
- **CONDITIONS OF USE**
  - Scope of works
  - Number of copies
  - Remuneration
  - Authorship requirements



- **HYPOTHETICAL STATUTES**

- **Specific:** “*[some] **works** [forming part of a collection accessible to the public] may be **reproduced** [by the museum] [without payment of remuneration to the copyright owner] for **preservation purposes** [by any means whatsoever.] [The other rights of the copyright owner must not be prejudiced. The source should be mentioned.]*”
- **General:** “*It shall be **lawful** to make **reproductions** [by photographic or other pictorial processes, provided this reproduction is **not-for-profit**, of statues, monuments and other works of art acquired by the authorities that are displayed in streets, parks and **museums**”*

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- **WAIVABILITY OF THE EXCEPTIONS**
- **EXTENSION TO DIGITAL**
- **CROSS-BORDER USES AND ITS IMPACT (E.G. FOREIGN USERS)**
- **LIMITATION OF LIABILITY OF MUSEUMS IN LIEU OF EXCEPTIONS**
- **IMPLICATIONS OF EXTENDED COLLECTIVE LICENSES (ECL)**

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**THANK YOU FOR YOUR ATTENTION**

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