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### Faustian Perspective on Digitization: Making a Deal with the Devil

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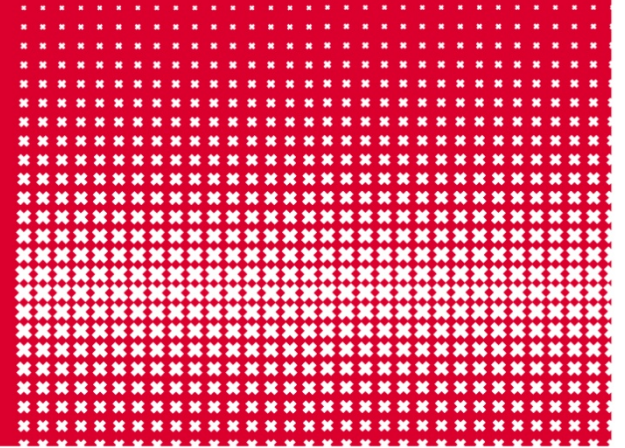
# Faustian Perspective on Digitization: Making a Deal with the Devil

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# ***Faustian Perspective on Digitization: Making a Deal with the Devil***

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10 April 2014

# The obvious stuff

- Digitizing cultural heritage is culturally, socially, and economically desirable
- Digitizing cultural heritage costs millions of € & £
- Money doesn't grow on trees
- Cultural heritage institutions cannot rely solely on public funding to digitize
- Public/Private partnerships are (almost) inevitable

## ... A couple more obvious stuff

- Public domain (PD) material forms a big part of the collections of cultural heritage institutions
- PD material is free from any copyright restriction (subject to moral rights in France, Italy, Poland etc.)
- ‘What is in the PD should remain in the PD’
- Situation is different regarding in copyright material

# New Renaissance report (2011)

## 6) Complementing public funding through public private partnerships for digitisation

- In order to protect the interests of public institutions entering into a partnership with a private partner a **set of minimum conditions** should be respected:
  - The **contents of the agreement** between a public cultural institution and a private partner should be **made public**.
  - The **digitised public domain material** should be **free of charge** for the **general public** and **available in all EU Member States**.
  - The private partner should provide cultural institutions with **digitised files of the same quality** as the ones it uses itself.
- The **maximum time of preferential use** of material digitised in public-private partnerships **must not exceed 7 years**. This period is considered adequate to generate, on one hand, incentives for private investment in mass-digitisation of cultural assets, and, on the other, to allow sufficient control of the public institutions over their digitised material.

# Recommendation

29.10.2011

EN

Official Journal of the European Union

L 283/39

## RECOMMENDATIONS

### COMMISSION RECOMMENDATION

of 27 October 2011

on the digitisation and online accessibility of cultural material and digital preservation

(2011/711/EU)

THE EUROPEAN COMMISSION,

progress has been made. However, progress is not consistent across the Member States and is uneven for the different points of the Recommendation.

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

- (4) Moreover the context for digitisation efforts and for collaboration at European level has changed considerably

# Annex I – Recommendation 2011

1. Respect of intellectual property rights
2. Non-exclusivity of digitization efforts by other private parties (if exclusivity, then max. 7 years)
3. Transparency of the process
4. Transparency of the agreements
5. Accessibility through Europeana
6. Key criteria:
  1. Financing; accessibility end-users; cross-border access; length commercial exclusivity; quality; use by cultural heritage institutions; time-scale of digitization



# Google/ Bibliothèque municipale de Lyon

- No exclusivity of indexation for the benefit of Google
- Exclusivity of digitization
- 25 years commercial exclusivity
- Certain restrictions of use of the files transferred to the BM

# Early European Books project

access. The standard model which we have proposed to a number of national libraries is as follows:

- ProQuest funds the scanning and creation of the digital files.
- The scanning is carried out on site in the source library.
- The master copies are returned to the source library.
- These files are owned by the source library.
- ProQuest provides free access to the source library's digitised collection within the country served by that library.
- ProQuest has the rights to make the collection available commercially in all other territories, and pays the library a royalty from these sales.
- ProQuest commits to the provision of global open access to the collection at a future date.

**Fig. 2**

Home page of Early European Books,  <http://eeb.chadwyck.com>.



# Policy concerns

- This type of PPP agreements...
  - Put a lock on PD material;
  - Go against the intent of Recommendation 2011 (non-binding instrument)
- Is there a mechanism to check that private agreements comply with policy objectives?
- If not, should there be one?