Copyright Issues and Israeli Practice in Digitizing Archives

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Abstract

Purpose

To promote the advancement of dealing with copyright when deciding whether to digitize previously unpublished material and place it on the Internet.

Aims

When deciding whether to digitize, one of the issues that needs to be considered carefully is the balance between copyright law and outreach and access; therefore, the first aim was to specify which factors relating to copyright should be considered when making a decision regarding the digitization and publication of archival material on the Internet. Copyright law differs between countries. The second aim was to depict the Israeli scene and determine which aspects relating to copyright law, if any, are taken into account in Israeli digitization projects.

Objectives

To reach the aims the following objectives were set out: to undertake a systematic review of the literature in two fields: copyright issues related to unpublished material – which could be the subject of digitization projects that can potentially be made available via the Internet, and archival theory – outreach and access; to identify a framework as a basis for determining best practice; to identify Israeli copyright law with regard to the digitization of unpublished material; and to establishing current practice in digitization projects in Israel in relation to copyright.

Methods

A Policy Delphi was conducted to reach all factors pertaining to copyright and outreach and access when making a decision whether to digitize. And Israeli case studies were researched to glean information about Israeli practice.

Results

The outcomes of the research were: a comprehensive list of factors pertaining to copyright that is a potential basis for creating archival guidelines. And varying case studies that give a partial picture of Israeli practice.

Conclusions

The Delphi results can constitute a framework for developing international and national archival guidelines. The Israeli setting is a varied one and further case studies should be studied to give a fuller picture.

Referencing style

The author-date referencing system from *The Chicago Manual of Style* was used in this dissertation.

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Table of Contents

List of tables

1 Introduction

This chapter contains the aims and objectives of the dissertation, it explains in brief what the two focus points of the work were, mentions the reasons for undertaking this project and sets out a brief framework for the work.

1.1 Topic

By and large, this dissertation revolves around copyright issues concerning publication of previously unpublished work – on the Internet. Digitization and publication of such material on the Net, adds to the complexity of dealing with copyright issues relevant to archival material.

In this dissertation one can find an attempt to start unravelling this complexity. This work was written from two perspectives: international and Israeli.

The international viewpoint, focuses on finding the somewhat opposing factors, concerning copyright and access and outreach, which need to be considered while making a decision whether to digitize and publish previously unpublished material on the Web.

The Israeli aspect, looks at Israeli current practice regarding digitization and publication on the Internet of archival material. The aspect focused upon, in this work, is the compliance, of this process and its outcomes, to Israeli copyright law.

1.2 Background

It is very hard or even impossible these days, to avoid stumbling into "copyright minefields". This is due to the rapid advancement in technology we are experiencing.

Copyright law does not always seem to keep up with technological advancement. This can lead to a lack of standards to guide the practitioner. This can lead to big problems, which no one intends or foresees. An example for a problem that might occur would be placing material on the Internet, with a high cost, just to discover this action breaches copyright law in some way

and the digitized archive needs to be removed from the Net, either in its entirety or only partially.

The thought behind this dissertation, was to promote the advancement of dealing with copyright. Hopefully, this work will be used as a basis for advancing the guidance on copyright issues.

1.3 Aims and objectives
1.3.1 Aims
The aims of this research are:

● to specify which factors relating to copyright should be considered when making a decision regarding the digitization and publication of previously unpublished material on the Internet; and

● to determine which aspects relating to copyright law, if any, are taken into account in Israeli digitization projects of unpublished material placed on the Internet.

1.3.2 Objectives
The aims identified above are achieved by undertaking the following objectives:

1. To undertake a systematic review of the literature in the following two fields:

● Copyright issues related to unpublished material – which could potentially be the subject of digitization projects that could be made available via the Internet

● Archival theory – outreach and access

Both fields (i.e., copyright issues and outreach and access) need to be explored as they have a direct bearing on the decision-making process – to publish or not to publish material previously unpublished on the Internet. One may also look at these two areas as two poles, each pulling the 'decision' in its direction.

2. To identify a framework that will be a basis for determining best practice.

3. To identify Israeli copyright law with regard to the digitization of unpublished material

4. To establish current practice in digitization projects in Israel in relation to copyright law.

1.4 Dissertation structure
The chapters following this chapter include:

● Chapter two – Literature Review: This chapter describes the systematic literature review. This has two focal points: copyright issues concerning previously unpublished material, and archival outreach and access.

● Chapter three – Methodology: This chapter describes the methodologies and issues that were considered in order to achieve the aims of this research.

● Chapter four – Results: This chapter contains the results of three pieces of research:

1. A Policy Delphi

2. An analysis of relevant Israeli copyright law

3. Three case studies regarding current Israeli practice

● Chapter five – Discussion: This chapter discusses the research findings.

● Chapter six – Conclusion: This chapter includes the findings and further avenues to be explored in the future.

The literature review starts by mentioning cyberspace and copyright law.

2 Literature Review

2.1 Introduction

2.1.1 Topic: Cyberspace is "everywhere and nowhere" as stated by Stokes (2009, 10). The problematic issues arising from this, according to Stokes (ibid.), regard "which law applies and which courts have jurisdiction" in cyberspace. Taking these problems into consideration and the fact that different countries have different copyright law, what are the factors that need to be taken into account regarding copyright when digitizing archival material and making it available via the Internet?

2.1.2 Purpose: To carry out a systematic review of the literature having a bearing on the topic in the following two fields:

1. Copyright issues concerning unpublished material, which could potentially be the subject of digitization projects that could be made available via the Internet.

2. Archival theory – outreach and access

2.2 Methodology – Conducting the review

The review was carried out by utilizing QSR NVivo 10 software that supports qualitative research.

The first step was to look for several sources. These sources were then entered into NVivo and each source underwent a word frequency query separately as opposed to cumulatively in order to reach words that might have otherwise been overshadowed. The queries returned the fifty most frequent words appearing in each source. These most frequent words were the basis for the initial coding of the sources.

Coding of sources took place on two levels – the entire source and a 'selection' from the source (the term 'selection' is taken from NVivo's interface). Coding the entire source involves assigning terms to the source that would describe its content in general. Coding a selection

means coding smaller segments of the document (e.g., paragraph or sentence). An example for coding can be taking a source and assigning 'copyright' as a descriptive term for the entire document and the term 'orphan works' for the third paragraph in that document.

Coding the initial sources resulted in more potential search terms that were then utilized in an iterative process of searching for sources, coding those sources, selecting new terms and then searching for more sources. Once no further search terms were found, the iterative process was stopped.

Coding sources, both generally and specifically, yielded many descriptive terms. Many were not significant for the initial literature search and did not warrant use as search terms (e.g., Japan or ARROW (Accessible Registries of Rights Information and Orphan Works towards Europeana (Stratton 2011, 4))).

Initial search terms:[1]

● "use*"/"non-user*"

● "digitiz*"/"digitis*"/"digital"

● "holder*"/"owner*"/"author*"

● "copyright"/"IP"/"intellectual property"/"IPR" (Intellectual Property Rights)/"right*"/

● "access"/"outreach"

● "archive*"/"repositor*"/"record* manage*"

● "material*"/"collection*"/"work*"/"content*"/"record*"

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[1] An asterisk * symbolizes a 'wild card' replacing any combination of letters.

● "research*"/"scholar*"/"creative*"

● "Internet"/"online"/"public domain"/"cyberspace"

Where the search took place:

● LISTA – Library, Information Science and Technology Abstracts

● LISA – Library and Information Science Abstracts

● a search with only some of the terms performed via Business Source Complete

● bibliographies of items that were retrieved

● Google and Google Scholar

● some bookshops and publishers on the Internet (e.g., http://www.facetpublishing.co.uk)

● index pages (searching online) of professional journals (e.g., Archivaria)

● some of the authors of sources that were retrieved were also searched as search terms – to discover more about their work on the subject

Search Limitations:

● Language: English.

● Issues concerning moral rights, were not included (See 'Moral Rights' in the glossary).

Scope of the review:

After coding the literature it was apparent that there were many issues relating to the topic, while not enough literature is written about the subject per se from an archival perspective. Among the few who write about the subject from an archival standpoint, one finds Padfield (2010) who also writes about the existence of the problem. Akmon (2010) writes about "the

copyright permissions process for the Jon Cohen AIDS Research Collection at the University of Michigan" (Akmon 2010, 45). Akmon's research was about the amount of "effort required to seek copyright permissions . . . the results of those efforts . . . and whether or not there were traits of documents or copyright holders that were associated with accept or denial status." (Akmon 2010, 45).

It could be assumed that the lack of information on the subject results from either or both of the following reasons: first digitizing and placing material on the Internet is a relatively new activity, and secondly, legislation in this area is lacking.

It was decided to include, in this review, some of the more significant issues relating to the subject according to the reviewer's opinion.

2.3 Digital copyright from a legal perspective

Copyright law for the tangible world is well-established. Stokes (2009, 1) says that "the first UK copyright statute dates back to 1709." In contrast, Digital Copyright is still evolving. Stokes summarizes as follows:

> (a) Digital copyright law involves the application of existing 'analogue' copyright rules to the digital environment and new digital rules.
> (b) The primary purpose of digital copyright law is to protect the . . . [interests of] the creator of the copyright work.
> (c) Gaps in the existing copyright rules are being . . . [dealt with piece by piece]. . . .
> (f) Unfinished legislative business includes better ways of dealing with international copyright disputes.

(g) The jury is still out whether digital copyright has a

long-term future or whether technical locks and keys

and/or contract law will displace copyright from

protecting digital content.

(h) Content owners will want to use a mixture of digital

copyright, technical measures and/or licences (ie [*sic*]

contract law) to protect their content. (Stokes 2009, 19)

Another point concerning article (f), worth mentioning regarding digital copyright and the Internet, is found in Padfield (2010, 175). Padfield observes that "the nature of the internet as a global communications medium makes copyright, an essentially territorial right which differs from country to country, very difficult to apply."

2.4 Motivation for digitization in archives
There are "three main influences on digitization activities in archives", says Oliver (2012, 49):

● The first is "the changing usage and user profile of archives" (ibid.). By this, Oliver (2012, 49-52) means that due to changes in society there is also a change in the user profile. The shift is from the mainly 'traditional' scholar users to an addition of many family historians as users.

● The second is "reformatting as a preservation strategy" (Oliver 2012, 49).

● The third is "the ability to crowdsource and harness 'user power'" (ibid.).

A few further short points about motivations to digitize:

● "Digitization . . . supports outreach" (Millar 2010, 199).

● "Digitization is both a preservation strategy and an access tool" (Millar 2010, 199).

● The ability to reach non-users of archives is mentioned by Hill (2004, 139).

● Barlow (2000, last paragraph) says that the institutions that have sufficient resources, "could . . . engage in some *pro bono* work, examining materials in local collections, local museums, and county libraries as well as in their own labyrinthine stacks as they proceed to digitize."

2.5 Digitization of archives – the negative impact on archives and archival staff

Oliver (2012, 54) writes about "problem areas" that accompany the advantages of digitizing archival material:

● Oliver (2012, 54-55) expresses concern about the rush to digitize. She talks about losing sight of the context of creation of a record and emphasizing the records' content instead. She relates to what Sassoon (2007, 139) writes mainly about photographs that are digitized. Sassoon (ibid.) writes that "the digitization process and the viewing technology encourages a focus on content, and this can lead to pressure for individual items to be *selected* more for their aesthetic content than their archival values." Sassoon (2007, 139) later writes ". . . digitization is creating a databank of orphans which have been removed from their transactional origins and evidence of authorial intent."

Oliver (2012, 55) mentions a related issue concerning the amount of metadata needed in order for users to retrieve records and says although the process of scanning may appear to be quick, the addition of relevant metadata is labour-intensive and time-consuming.

● Following the previous point, Oliver (2012, 55-56) discusses "resource implications", mentioning "significant costs." She also discusses the "little awareness of concerns about even the medium-term sustainability of the digital surrogates that are being created, let alone the long-term considerations" (Oliver 2012, 56).

● As already mentioned above, Millar (2010, 199) says that digitization is a "preservation strategy and an access tool." Oliver (2012, 56-57) makes an interesting observation, that

digitization can raise "awareness of the existence of archival records, [as a consequence] there may be increased demand to see and touch the originals."

2.6 Cooperation of other disciplines with archival management

From the literature searched it seems that archivists are self-oriented. The issue of copyright and digitization of unpublished material is of multi-disciplinary concern. Yet archival sources contain very little in regard to the cooperation or lack thereof with other disciplines, such as cooperation between ICT (Information and Communication Technology) and archival management. Archival management sources also fail to describe what other disciplines are concerned with regarding the subject of copyright and digitization of unpublished material still under copyright.

Something encouraging is found in Oliver, Chawner, and Liu (2011, 311) who write "the need to work closely with information and communication technology (ICT) professionals is essential if digital preservation aspirations are to be realised. However, consideration has not been given to the challenges inherent in being respected or trusted by this occupational group."

When reading literature from the law sphere one finds, for instance, an article by Halderman and Felton (2006) that talks about CDs, though the same idea could apply to the Internet. They write as one of their conclusions, "the design of DRM [(Data Rights Management)] systems is driven strongly by the incentives of the content distributor and the DRM vendor, but these incentives are not always aligned. Where they differ, the DRM design will not necessarily serve the interests of copyright owners, not to mention artists" (Halderman and Felton 2006, 26). The lack of considering other professions' standpoints, and the lack of trying to work with them in mind, can cause our best intentions to be futile.

2.7 "Practical obscurity"

Dalgleish (2011, 67) writing about personal and community sensitivities and ethics, writes that "legal permission is only the first step in making material available. The second step is to decide

how to make collection material available." He mentions 'disclosure' becoming a multilevel concept:

> Providing an original record to one researcher in a reading
>
> room; mailing a photocopy to one or several researchers;
>
> making a digital image of the record available through the
>
> institution's online catalogue where it cannot be found
>
> through a web browser; or making the digital copy
>
> available through an archival portal where it can be located
>
> by web browsers. (Dalgleish 2011, 74)

Dalgleish (2011, 71) writes that 'Practical obscurity' was an expression conceived by Archives New Zealand. Connected with what Danielson (1989, 58) writes, Dalgleish (2011, 71) says that "practical obscurity relates to the number of people who 'practically can access the information and easily match it with other information rather than whether the information is formally available for viewing'." He continues and writes: "the effect of making records accessible on the Internet diminishes those practical barriers" (ibid.).

2.8 The relationship between copyright and access

Dryden (2006, 180), a Canadian archivist, thinks that copyright is too stringent, and writes: "It is clear that archival material is different from works created for commercial exploitation, but unfortunately, copyright law does not recognize that difference." She goes on and summarizes using Spoo's words:

> Unpublished works form a rich part of our cultural heritage
>
> and must yield, within the constraints imposed by a limited
>
> monopoly, to the larger needs of society. If these works

continue to be viewed solely in their character of private

property, they will be prevented from participating fully in

the creative ecosystem that generates new embodiments of

expression . . . . The immediate sufferers will be historians,

biographers, scholars, and journalists; the ultimate victim

will be society itself. (Spoo 1998, 185)

Hirtle (2001, 263-64) says that "the limited monopoly rights granted by copyright are irrelevant to the creation of most unpublished material – even though unpublished material then lives under a copyright regime that assumes that limited monopoly rights were an essential component in the creation of the material." Hirtle (2001, 263-64) and Dryden (2006, 180) both say that an incentive to create in the form of copyright is less important or necessary in unpublished material in comparison with published material.

One can now return to what was written about digital copyright in section 2.3. In article (b) one finds: "The primary purpose of digital copyright law is to protect the investment and/or the skill and effort of the creator of the copyright work" (Stokes 2009, 19). The creators needing protection are also the historians, biographers and scholars, who Spoo speaks about on their behalf. In many cases one may assume that they have personal and financial interests besides a purely scholarly interest.

Copyright seems to be a double-edged sword in many cases! Another way of putting it would be to say that most creators today wear two hats. Wearing one hat, they would like non-restricted access to material on which they could base their works and wearing the other, they would like an incentive to create (i.e., copyright on their own work).

Jean Dryden published more than Dryden (2006) mentioned above, regarding archival material and copyright (e.g., Dryden 2008a). The impression received from her work is obvious;

archivists are too restrictive when it comes to considerations of what can be digitized according to copyright law.

Dryden (2011, 523) goes further and uses 'copyfraud' "to refer to false claims of copyright." From Dryden's writings it is apparent that archivists do not see copyright as it was legally intended as a way of protecting creators and giving them an incentive to create.

2.9 Orphan Works

'Orphan works' is "a term used to describe works which are, or may be, still in copyright but whose owner is impossible to identify or trace" (Padfield 2010, 94). This is a subject written about by many in different disciplines. Examples from the archival management sphere include: Hirtle 2001; Briston et al. 2009; McKay and Yakel 2006 and Purday 2010. This subject poses a difficulty when wanting to publish material and especially when wanting to publish on the Internet. Briston et al. (2009, 2) write: "An orphan works analysis should be conducted in those cases in which it is recognized that the materials are or may be under copyright, permission for the use must be obtained, the author cannot be located, other exemptions are not available, the use benefits society and common sense guides the decision-making process."

Many factors that cannot all be covered in this review, due to the review's scope, need to be considered when deciding to digitize orphan works (e.g., 'Fair Use').

One such factor, elaborated here, will give food for thought on the matter of how technology might change the decision to publish. The example is taken from Hirtle (2001, 265-66). Hirtle (2001, 265) describes a decision regarding the "the Calvin Coolidge papers at the Library of Congress." In this case the Library of Congress faced copyright problems common to other presidential papers (e.g., not knowing to whom the IPR (Intellectual Property Rights) belong). Hirtle (ibid.) writes, "Unable to successfully solve this problem, the project did what the other presidential projects have done: publish without securing permissions for every item in the

collection." He goes on to tell us that twenty years later, the Library of Congress wanted to digitize and place "the Coolidge papers that had earlier been micro-filmed" (ibid.) on the Internet. Since placing some of the material on the Net could expose the Library of Congress to litigation, copyright status of all the items was investigated. "In spite of this effort, the library was unable to identify all of the possible rights holders in the materials in the collection. It therefore makes some of the material available under an assertion of fair use." (Hirtle 2001, 266).

Hirtle summarizes the case:

> No significant change in the legal status of the unpublished material occurred between the publication of the microfilm edition and the publication of the digital version. It was instead a change in technology – the greater public accessibility of the digital version – that encouraged the Library of Congress to follow different procedures. (ibid.)

2.10 Conclusion

Naturally, as a 'successful' technology evolves and develops, people want to exploit it. At present, if we take the Internet and look at the disciplines that relate to it (e.g., law) or the areas of activity looking to exploit it (e.g., archival administration), these areas are not capable of keeping up with all the implications of its exploitation.

When searching the archival literature for writings concerning the placement of unpublished material on the Internet and the matter of international copyright and the fact that different copyright law resides in different countries, one finds that there is a certain awareness of a problematic issue. An example is found in Akmon (2010) who approaches the matter from an

archival standpoint. She writes: "Because of complicated rules, a lack of case law, and differences based on where in the world a work was created, copyright law is a noted area of confusion to archivists"[2] (Akmon 2010, 46). Unfortunately, there is a considerable distance between being aware of a problem and trying to solve it, let alone solving it.

At present, it is apparent from the literature that there is a lack of guidance on how to conduct decision-making regarding the problem. Akmon (2010) writes about the copyright permissions process, trying to offer some practical insight that should help deal with the matter.

In attempting to find more helpful literature, one finds material in several spheres (e.g., archival administration, law and ICT). The problem is a multidisciplinary problem and one in which each discipline has a unique perspective.

One can conclude from the literature review that this is a complex problem with no immediate answer and probably no successful answer for some time to come. A viable temporary solution is nonexistent. Common sense is used to solve the problem (see, for example, Hirtle (2001) above about the Calvin Coolidge papers and The Library of Congress). Common sense can only serve archivists in relatively simple cases where they are aware of all the implications of their decisions. One must also not forget Dryden (2006; 2008a; 2011) and her writing about copyright being 'too strong' when it comes to archival practice. What is missing in the literature is a determination of which factors should be included in a decision.

In the next chapter "Methodology", one can read about the methodology used to try and determine these factors.

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[2] This quote is supposed to be related to what Dryden (2008b) writes, according to Akmon (2010, 46); though it seems to be taken from a different source.

3 Methodology

3.1 Introduction

This chapter begins by reiterating the aims and objectives of the research. The chapter then goes on to explain the choice of methods that were deployed in the study and depicts these methods.

3.1.1 Aims

This study had two aims:

1. Specifying which factors relating to copyright should be taken into account when making a decision regarding the digitization and publication of previously unpublished material on the Internet.

2. Determining which aspects relating to copyright law, if any, are taken into account in Israeli digitization projects of unpublished material placed on the Internet.

3.1.2 Objectives

The aims were accomplished by pursuing the following objectives in section 1.3.2.

Each objective except for the literature review, that constitutes the second chapter in this dissertation, is elaborated upon below.

3.2 Objective 2: Identifying a framework that constitutes a basis for determining best practice

Here, we begin to discuss the methodologies that were used to obtain the objectives of this research. The Delphi technique is the first technique discussed. It was used to identify all factors concerning copyright law that need to be accounted for when deciding to digitize.

3.2.1 What is a Delphi?

According to Turoff and Hiltz (1996, 56-57) "The Delphi Method is a communications structure aimed at producing detailed critical examination and discussion, not at forcing a quick compromise."

3.2.2 The appropriateness of the Delphi technique to this study

Based upon section 3.1.1, one can characterize the problem:

● The problem is complex.

● This problem is new and emerged from the evolvement of technology. Therefore there is a lack of theoretical and previously published knowledge on which to base a solution.

Another consideration in the choice of methodology is that when characterizing the source of a possible solution to the problem (i.e., subject experts), one must remember that these experts are geographically dispersed.

Taking these characteristics, of the problem, into account – one can consider using a Delphi. This is because:

● The Delphi technique has been used "in situations where there was a lack of historical data or useful theory . . . or in extremely complex situations where human judgment was at premium" (Henley Management College, n.d.).

● "A Delphi study is a practical technique for conducting research which seeks to gather views from geographically dispersed participants in a timely, time effective and convenient manner for all those involved" (McLeod and Childs 2007, 147).

3.2.3 What can be achieved by deploying the Delphi technique?

Many sources (e.g., Hsu and Sandford 2007; Zhang and Salaba 2009) mention that the aim of Delphi is consensus.

Linstone and Turoff (2011, 1714) say there is "a mistaken impression that the aim of Delphi is consensus." They (ibid.) go on and say: "Our 1975 book clearly states that Delphi is 'a method for structuring a group communication process', not a method aimed to produce consensus."

Steinert (2009, 293) writes that "one major characteristic of the classical Delphi design is the inherent aim on building a [*sic*] equilibrium of experts' views e.g. a stable consensus. Alternatively it is possible to base a Delphi design on dissensus, resulting e.g. in a stable bipolar distribution . . . ." In this study dissensus was desirable. This point is discussed in the next section, regarding the type of Delphi utilized in this study.

3.2.4 Choosing the type of Delphi to deploy

There are different types of Delphi (e.g., Classical Delphi). The reasons for choosing the Policy Delphi, are described below.

One of the purposes of this dissertation is to elicit as many pertinent factors to be taken into account when deciding on a policy that deals with placing unpublished material on the Net. What could be problematic at an initial stage, of trying to find as many pertinent factors as possible, would be to strive for a consensus.

Keeney, Hasson, and McKenna (2011, 27) write that one of the drawbacks of consensus is that "the pursuit of consensus can conceal important variations in views."

The other path to take would be dissensus. The most prominent type of Delphi aiming at dissensus is the Policy Delphi.

Turoff ([1975] 2002) writes that "a Policy Delphi should be able to serve any one or any combination of the following objectives:

● To ensure that all possible options have been put on the table for consideration

● To estimate the impact and consequences of any particular option

● To examine and estimate the acceptability of any particular option."

The first aim of the dissertation is to specify which factors relating to copyright should be considered when deciding to digitize and publish archival material on the Internet. As one can see, Turoff's first objective is congruent with this aim.

3.2.5 Some drawbacks of Delphi and the Policy Delphi

Utilising the Delphi technique in general or the Policy Delphi specifically entails some drawbacks and limitations. Some examples can be found in the following list:

1. Guidelines – "No firm guidance exists regarding the size, composition and selection of participants" (Keeney, Hasson, and McKenna 2011, 30).

2. Breadth vs. depth – De Loë (1995, 53) writes: "an important shortcoming of the policy Delphi is a tendency to breadth but not depth in the survey process. Therefore among the guidelines offered is the suggestion that policy Delphi surveys should be used as precursors to workshops or interviews." De Meyrick (2003, 12) adds: "the solutions are then examined in depth by the experts and consensus reached on the one most appropriate."

3. Linstone ([1975] 2002) identifies eight pitfalls that can be associated with the Policy Delphi; for example 'sloppy execution' mentioned in section 3.2.6 under 'Criteria for the selection of experts'.

3.2.6 Recruiting Policy Delphi participants

Criteria for the selection of experts:

Purposive sampling took place. As mentioned in sub-section 3.4.2, Bryman (2008, 458) writes that "such sampling is essentially strategic and entails an attempt to establish a good correspondence between research questions and sampling."

De Meyrick (2003, 10) writes that "the Delphi method focuses on the identification of expert opinion. It is suitable, therefore, where complex questions are involved." The choice of participants consequently, was made on the basis of panelists' expertise.

Linstone ([1975] 2002, 567-68) talks about "sloppy execution" as a pitfall of a Policy Delphi, he mentions that one of the reasons for this could lie in "poor selection of participants". He speaks about "a cozy group of like-thinking individuals" as an example of a poor choice.

At first, one might have only chosen participants who were archivists possessing formal legal education or having extensive experience with copyright issues. Thinking again, about the 'cozy group of like-thinking individuals' mentioned above, influenced the choice of expert participants candidates. The Delphi panelists that were invited, came from two disciplines – archival administration and law. Unfortunately, no legal experts agreed to participate. So the not 'cozy group of like-thinking individuals' was achieved by choosing participants from different countries.

Finding potential participants:

Names of potential participants were found in professional material (e.g., journal articles and conference papers), regarding copyright law and/or archives. The experts were prolific writers on these subjects or they were mentioned in these texts as professionals specialising in copyright law.

Recruitment:

See section 3.5.

Number of participants:

When planning the research the number of participants sought was eight. Novakowski and Wellar (2008, 1496) write: "We concur with Cavalli-Sforza and Ortolano (1984)[3] that using a panel size of eight to twelve may be appropriate in many cases."

3.2.7 Subject anonymity and confidentiality

One learns about the importance of anonymity in Ziglio (1996, 6), where he writes that "the Delphi Method may also be used when the heterogeneity of the participants must be preserved and anonymity assured to avoid the domination of the communication process by one particular profession, vested interest or strong personality." Ziglio (1996, 8) continues and writes: "the technique has the advantage of eliminating a major bottleneck in most group dynamics by providing opportunities for a clear delineation of differing views in a non-threatening environment."

Another benefit deriving from anonymity is: "a person need not be embarrassed if he or she does not feel able confidently to contribute to a specific aspect of the problem" (Turoff and Hiltz 1996, 60).

What to expect of subject anonymity in this Delphi?

On one hand, anonymity of the participants could not be completely guaranteed, due to the relatively small number of experts in the archival field. One assumed that participants had prior knowledge of some of the other participants' views. What compounds the problem, according to Keeney, Hasson, and McKenna (2011, 106-7), is the fact that the researcher knows who the participants are and what their responses are.

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3 "Cavalli-Sforza V, Ortolano L, 1984, "Delphi forecasts of land use: transportation interactions" *Journal of Transportation Engineering* **110** 324-339" (Novakowski and Wellar 2008, 1499).

On the other hand, according to Keeney, Hasson and McKenna (ibid.), the experts participating in a Delphi, cannot accredit answers "to any one expert." This means maintaining some kind of anonymity.

Keeney, Hasson and McKenna (ibid.) write it is important to explain the subject of anonymity and its limitations to the participants when inviting them to participate in a study (i.e., before signing the consent form); consequently, this was carried out in this study.

Confidentiality:

Keeney, Hasson and McKenna (2011, 108), say confidentiality should be guaranteed to all Delphi participants, by the researcher. According to them (ibid.) the researcher also needs to assure the panel experts that comments they make will not be associated to their name in subsequent publication.

3.2.8 Outlining the Policy Delphi
Method of delivery:

This was a paper-and-pencil-based Policy Delphi. In such a Delphi "the structure . . . [is] divided into three or more discrete rounds" (Turoff and Hiltz 1996, 65). This was not a "computer-based Delphi process" (ibid., 56) per se, despite the utilization of IT (Information Technology). A computer-based Delphi enables greater flexibility and sophistication compared to a paper-and-pencil based Delphi. An example of this 'greater flexibility and sophistication' is "asynchronous interaction" (Turoff and Hiltz 1996, 58) – in which panelists are able to participate in the different rounds of a Delphi concurrently (i.e., not discrete rounds of a paper-and-pencil Delphi).

Uniformity of language:

The Policy Delphi involved experts from different countries. Ziglio (1996, 18) writes: "when the Delphi Method involves experts from different countries a problem may arise due to language."

To solve this problem and contribute to the reliability of the Policy Delphi, Ziglio (1996, 19) suggests "providing key words and clear instructions for carrying out the tasks required."

Conceptual Model:

Rotondi and Gustafson (1996, 42) write that "if the members of a group have different perspectives on what their task is, how it should be accomplished, or what the final outcome should be, the extra potential for creativity which a group offers will not be realised."

Rotondi and Gustafson (1996, 42-47) suggest using a straw model. They (ibid., 43) say: "a straw model is a conceptual model of a group's task. It defines the parameters of the task and presents a perspective on how the task can be accomplished."

Goodwin (2002, 27) writes about her Delphi study, that "the research questions for this study provided the recommended [conceptual] model." In this study the research questions also served that purpose.

One should bear in mind that this conceptual model is not a fully-fledged straw model. The researcher did not want to dictate how the task was to be accomplished.

Monitoring participant satisfaction:

In this research panelists could comment on the process when completing the questionnaires; the comments were reviewed and appropriate changes were made. Additionally, the time it

took to answer a questionnaire was monitored (this was influenced by Jillson ([1975] 2002)). The idea being, that completion time would not pose an obstacle that led to dissatisfaction and a low return rate.

Motivating participants:

There are many ways to motivate participants. Edwards et al. (2002, 1183) mention in their systematic review of "increasing response rates to postal questionnaires" that they were dealing with the evaluation of "75 different strategies for increasing response to postal questionnaires" (ibid., 1185). Two motivational methods follow:

1. Rotondi and Gustafson (1996, 39-41) mention several ways to motivate participants; among them: "potential for personal and professional growth" (ibid., 40-41).

2. Keeney, Hasson and McKenna (2011, 65) tell one to "insert clear instructions on how long it will take to complete each round and whom to contact if a question arises."

3.2.9 The number of Policy Delphi rounds
Data collection was stopped after three rounds. The reasons for this are mentioned below.

The ideal number of Delphi rounds:

> The number of rounds should be based on when stability in the responses is attained, not when consensus is achieved. In fact, a bipolar distribution may be a result and a very significant one indeed. This shows a crucial difference between Delphi and a traditional panel, where consensus is desired and may even be forced. (Linstone and Turoff 2011, 1714)

Other considerations in deciding the number of Delphi rounds:

Two further considerations were taken into account. The first was the fact that this study's purpose was an MSc Dissertation; therefore, the resources available for it were limited. The second was a potential risk of attrition setting in.

Keeney, Hasson, and McKenna (2011, 53) write: "no specific guidelines exist for an acceptable response rate for Delphi studies." Nevertheless, one aims to prevent a decline in the response rate throughout a Delphi. Achieving this, involves preventing attrition. Donohoe and Needham (2008, 422) say that "the Delphi is vulnerable to attrition rates and this must be carefully considered and managed by the researcher. High attrition rates are often attributed to the long temporal commitment required, the distractions between rounds, or disillusionment with the process."

3.3 Objective 3: Describing Israeli copyright law in regard to digitization of unpublished material

This research describes Israeli copyright law concerning digitization of unpublished material. This description is a benchmark to which the practices of the Israeli archives chosen as study cases, are compared.

A documentary analysis of the law was undertaken (see section 3.3.2).

In order to complement the description of Israeli copyright law concerning unpublished material, two interviews with experts on copyright issues, from prominent Israeli public authorities, were planned to take place (see section 3.3.1). The interviews' guide can be found in Appendix B. According to Bryman (2008, 695) an interview guide is "a rather vague term that is used to refer to the brief list of memory prompts of areas to be covered in [an unstructured/semi-structured interview]."

3.3.1 Interviews – a methodology

According to Patton ([1980] 1990, 278) "qualitative interviewing begins with the assumption that the perspective of others is meaningful, knowable, and able to be made explicit."

Patton (ibid., 280) mentions three ways to collect data via open-ended interviews: "(1) the informal conversational interview, (2) the general interview guide approach, and (3) the standardized open-ended interview." The general interview guide approach (2) entails a less detailed advanced preparation of the questions to be asked in the interview compared to the standardized open-ended interview (3). In the standardized open-ended interview one plans every detail that will supposedly occur in the interview.

An open-ended interview can be planned to include any combination of these methods.

Each of the approaches mentioned above, has its advantages and disadvantages. One example is the informal conversational interview that enables responding to what actually takes place during an interview. However this flexibility has its price – the collection of systematic information via an informal conversational interview, might take considerably longer compared to the other ways in which an interviewing process could be approached.

According to Patton ([1980] 1990, 290-95) different types of questions can be asked during an interview, one kind being – knowledge questions. In such questions "it is the respondent's understanding of 'factual' knowledge that is being elicited" (ibid., 295).

Patton (ibid., 295-359) mentions several other issues that need to be considered when planning and conducting interviews. Such matters include among others: "wording of questions," "rapport and neutrality," and "recording the data." Another such issue mentioned immediately below, is ethics.

Patton (ibid., 356) writes about qualitative interviewing that "*qualitative methods are highly personal and interpersonal, because naturalistic inquiry takes the researcher into the real*

world . . . and because in-depth interviewing opens up what is inside people—qualitative inquiry may be more intrusive and involve greater reactivity than surveys, . . . and other quantitative approaches." This being the case, Patton (ibid., 356-57) lists some of the ethical issues a researcher/evaluator needs to contend with; for example, promises made to interviewees and informed consent.

3.3.2 Documentary analysis

A documentary analysis of current Israeli copyright law concerning publishing archival material on the Internet, was designed to describe what one can find in current pertinent Israeli legislation.

3.3.3 The reasons for taking this course of action

The researcher did not have legal experience to explore many of the practicalities of Israeli copyright law independently. As a result, the idea for conducting the interviews with both experts – originated.

As mentioned in the previous section 3.3.1, a type of questions that can be asked during an interview is knowledge questions. The type of information sought was specialised professional knowledge from the areas of law and archival administration. It was thought that an expert employed by prominent Israeli public authorities was the appropriate choice for eliciting some of the information that was required.

3.4 Objective 4: Current practice in Israeli digitization projects

This sub-chapter discusses establishing current practice in Israeli digitization projects. The methodology used to reach this end was – Case Studies.

3.4.1 Case Studies

According to Bryman (2008, 691): "Case study [is] a research design that entails the detailed and intensive analysis of a single case. The term is sometimes extended to include the study of just two or three cases for comparative purposes."

3.4.2 Sampling and criteria for the Case Studies

Purposive sampling:

The case studies were chosen as a purposive sample. Bryman (2008, 458) writes that "such sampling is essentially strategic and entails an attempt to establish a good correspondence between research questions and sampling."

Patton ([1980] 1990, 169-83) mentions that when dealing with purposive sampling, several types of "Sampling Strategies", exist. The one chosen for this research was "maximum variation sampling". That entails "purposefully picking a wide range of variation of dimensions of interest . . . [It] documents unique or diverse variations that have emerged in adapting to different conditions. [It also] Identifies important common patterns that cut across variations" (Patton [1980] 1990, 182-83).

Sample size:

Patton ([1980] 1990, 185) writes that "*the validity, meaningfulness, and insights generated from qualitative inquiry have more to do with the information-richness of the cases selected and the observational/analytical capabilities of the researcher than with sample size*." The minimum sample size that was decided upon when designing this research was half a dozen case studies. The factors considered in the decision, regarding the number of case studies, were mentioned in Baker and Edwards (2012). It was thought that six case studies would enable information saturation. Regarding practicalities, six case studies seemed to be feasible when taking the resources and time frame of the research, into account. This number was open to change during the research process and the analysis of the results.

Criteria:

Each of the case studies fulfilled all of the following criteria:

● They have digitized Israeli archives placed on the Internet

● The archive in its entirety or part was still under Israeli copyright law

● The owners of the archives, according to Israeli copyright law, were not the institutions that placed them on the Internet or specifically on their websites

Other criteria such as subject matter of the collection or the type of institution that considered digitization of or digitized the collection – differed.

3.4.3 Identification of Case Study participants

The researcher identified six case studies in Israel which fulfil all three criteria for case studies (section 3.4.2 under 'Criteria'). All potential case study participants, received invitations to participate (section 3.5). These invitations were sent up to three times to each participant, depending on their response or lack thereof. In addition, some of the potential case study representatives were phoned. Two of the potential case study participants agreed to participate in the research. One of them gave the researcher three other potential participant's names. The researcher checked the suitability of these potential participants, according to section 3.4.2 under 'Criteria' and found one of the three suited the criteria. This case study's representative was also contacted, and agreed to participate in the study.

3.4.4 Motivating Participants

As mentioned above (section 3.2.8 under 'motivating participants'), one can motivate participants in many ways.

The case studies though differed from the Delphi. The case studies were studied over a shorter period of time and took up less time and effort from participators. Therefore, motivation took place 'only' twice. Once when initially approaching the participants.
The second time was at the completion of the participator's role – each participant was asked

if they wanted to receive the results. If an affirmative answer was given, they were sent the results.

3.4.5 Triangulation in the case studies

Website content was analysed; in addition interviews (See sections: 3.4.6 and 3.3.1) were held with one member of staff from each archival service. These members of staff were responsible for making decisions regarding digitisation. The general interview guide approach was used. An interview guide can be found in Appendix C.

The reason for the utilization of more than one method of delivery, for the case studies, stems from planning to triangulate two data sets at the final stage of the research - one deriving from content analysis and the other from the interviews.

Bryman (2008, 700) says that 'triangulation' is "the use of more than one method or source of data in the study of a social phenomenon so that findings may be cross-checked."

According to Thurmond (2001, 253), "triangulation is the combination of at least two or more theoretical perspectives, methodological approaches, data sources, investigators, or data analysis methods. The intent of using triangulation is to decrease, negate, or counterbalance the deficiency of a single strategy, thereby increasing the ability to interpret the findings."

There are three reasons why triangulation was planned to be deployed in this study:

1. Dryden (2008a, 130) regarding analysis of website content concerning copyright issues, writes that "we cannot know what was *not* selected for copyright reasons. Without additional information, an analysis of the documents selected from the websites provides, at best, a general impression of the repositories' selection decisions of interest from a copyright perspective."

2. There might be a discrepancy between an archive's official policy and everyday practice, regarding copyright law and posting material on the Internet. Utilising triangulation would help expose such a potential inconsistency – if existent.

3. Dryden (2008b, 249) writes about her dissertation and says that "like any dissertation, this study has a number of strengths and limitations. One of its strengths is the use of multiple sources of data . . . . While it would have been possible to conduct the study without the interviews, they provided an opportunity to ask questions about website content."

3.4.6 Content analysis

A short description of what content analysis is in qualitative research can be found in Bryman (2008, 697). He writes that it is "an approach to documents that emphasizes the role of the investigator in the construction of the meaning of and in texts." This method stresses the appearance of categories "out of [the] data" (ibid.). Content analysis also acknowledges the importance of context.

3.5 Ethics

In Hugh P. McKenna's "The Essential Elements of a Practitioners' Nursing Model: A Survey of Clinical Psychiatric Nurse Managers." *Journal of Advanced Nursing* 19(5): 870-77 (quoted in Keeney, Hasson and McKenna 2011, 13), one is advised to use a 'personal touch' to "help enhance return rates" (Keeney, Hasson and McKenna 2011, 13). Bryman's (2008, 220) advice is to "write a good covering letter explaining the reasons for the research, why it is important, and why the recipient has been selected."

Each potential participant, in the research (i.e., potential Delphi or case study participant), received an invitation to participate. Attached to the invitation were a consent form, found in Appendix D, for completion by the prospective participants, and a cover letter. An example, of such a letter, is located in Appendix E.

3.6 Data analysis and verification

3.6.1 Who performed the analysis?

Only one person performed the analysis – the researcher. This had an unknown negative effect

on reliability (i.e., "The degree to which a measure of a concept is stable" (Bryman 2008, 698)).

One should remember, that this negative effect, relates to the nominal variables, deriving from

unstructured text, mentioned in section 3.6.3 under 'The variables stemming from the research

aims'. A probable positive effect on reliability could have come from utilizing NVivo software

because utilising software can eliminate an element of human inconsistency.

3.6.2 Software used for the analysis

● QSR NVivo 10 software that supports qualitative research (Beazley and Jackson (2013) was

used for optimal exploitation of NVivo.) – An example of findings from text analysed using

NVivo, is found in section 4.4.3.

● Microsoft Office Excel 2007

3.6.3 Variables

Returning to the research aims:

1. Finding the factors relating to copyright that should be considered when making a decision

to digitize material and place it on the Internet.

2. Discovering the aspects relating to copyright law that are considered in Israeli digitization

projects of unpublished material placed on the Internet.

The variables stemming from the research aims:

1. A nominal variable – *Potential factors* that need to be considered

2. Two interval variables – *Mode and Median* that were derived from the Policy Delphi's

participants' ratings.

3. A nominal variable – *Factors* relating to aspects deriving from copyright law taken into consideration in Israeli digitization projects

3.6.4 Methods for identifying themes and concepts from the data

QSR NVivo 10 software was employed to identify/extrapolate themes and concepts from a body of unstructured and partially structured data. This data was obtained from content analysis and interviews. Using the software enabled a consistent approach to analysis (e.g., coding and performing text search queries and word frequency queries).

3.7 Summary

This chapter depicts the methodologies and issues that were considered, in order to accomplish the aims that were set out for this research.

The aims and their respective methodologies:

1. Finding the factors relating to copyright that should be taken into account when making a decision to digitize material and place it on the Internet – Policy Delphi

2. Discovering the aspects relating to copyright law that are taken into account in Israeli digitization projects of unpublished material placed on the Internet – case studies (interviews and content analysis), a description of Israeli copyright law concerning previously unpublished material, and triangulation.

In the next chapter "Results", one can find the results of the research and sufficient data to support them.

4 Results

4.1 Introduction

This chapter presents the results of the three pieces of research undertaken, in order that the objectives of this study are accomplished.

In brief the objectives and the ways to accomplish them were:

● A systematic literature review (Chapter 2).

● Identifying a framework that will be a basis for determining best practice by Policy Delphi (section 4.2).

● A description of Israeli copyright law relating to digitization of unpublished material. This is found in section 4.3.

● Using case studies to establish current Israeli practice in digitization projects – concerning copyright law (section 4.4).

4.2 Objective 2: Policy Delphi results

4.2.1 Introduction

An objective regarding the decision whether to digitize or not, was to carry out a Policy Delphi. Section 4.2.3 provides a framework which specifies factors which relate to outreach and access and copyright law that should be taken into account when determining whether digitization and publication of previously unpublished material is a reasonable choice. As shown in the results, each factor was assigned an indication to its relative significance, this indication took the form of a mode and a median. These results also assisted the researcher in writing the interview questionnaire, intended for evaluating Israeli archival practices.

4.2.2 Response rate and other descriptive data

20 potential Delphi participants from the spheres of law and archival administration received invitations. Each potential participant received up to three invitations, depending on their response or the lack thereof.

Five participants originating from more than one country, and belonging to the archival administration domain were recruited. All five completed all three rounds of the Policy Delphi.

Not all participants rated every factor, since they were instructed not to rate factors they felt uncomfortable rating, for any reason.

To see how the participants rated the factors see Appendix F. In appendix F one finds the detailed ratings as they were given by the participants in the Delphi's third round. One can also see how the modes and medians for each factor were calculated.

4.2.3 Findings

In the following table, one finds the factors in their descending rating order according to the medians and modes. The factors are divided into two groups: first, factors relating to copyright law and then other factors. These medians and modes were calculated from the participants' ratings.

When looking at the Delphi results, one can see that the researcher gave two results for each factor the median and the mode. The median gives the reader the possibility to know how the factor was rated by the panel. The mode in some cases can answer whether there was a consensus round the rating for a specific factor. If there is no mode, participants' ratings for a factor differed from all or some of their fellow panelists' ratings. Note that if as few as two participants agreed on a factor's rating, there might or might not be a mode for a factor.

Using both modes and medians does not reveal the entire picture regarding how unanimous the results were; nevertheless it elicited a comment from participant H3 – see section 4.2.4.

Factors (Separated by topic and placed in descending order, under each topic)	Median '1' – Not at all important, '7' – Extremely important	Mode '1' – Not at all important, '7' – Extremely important
Factors relating to copyright law		
Irrelevance of copyright to the creation of most unpublished material: Archival material is different from material created for commercial exploitation and/or publishing; however copyright law does not recognize that difference (According to Hirtle (2001, 263-64) and Dryden (2006, 180)).	7	7
The possibility that technical locks and keys might discourage some users	5	5
"The nature of the internet as a global communications medium makes copyright, an essentially territorial right which differs from country to country, very difficult to apply" (Padfield 2010, 175).	5	5
An assessment of the direction copyright law is taking. (i.e., the prediction of the kind of use that will be allowed when dealing with unpublished copyright works).	5	5
"The primary purpose of digital copyright law is to protect the investment and/or the skill and effort of the creator of the copyright work" (Stokes 2009, 19).	5	-
Digital copyright law is still evolving	4	4
"Unfinished legislative business includes better ways of dealing with international copyright disputes" (Stokes 2009, 19).	3	-
According to Stokes (2009, 19), there is uncertainty "whether digital copyright has a long-term future or whether technical locks and keys and/or contract law will displace copyright from protecting digital content."	3	-
'Copyfraud' – see the glossary	2	2
Moral Rights – Internet users might not respect moral rights of creators of material published on the Internet.	2	2

Factors (Separated by topic and placed in descending order, under each topic)	Median '1' – Not at all important, '7' – Extremely important	Mode '1' – Not at all important, '7' – Extremely important
Other factors		
Digitization as an access tool – according to Millar (2010, 199) digitization is an access tool	7	7
'Common sense'	7	7
The relationship of the holding institution with the rightholders; that is, the original deposit terms	6.5	-
Having to determine the amount of sensitive data contained in a collection and closing, such data, before digitization	6.5	-
Supporting outreach	6	6
Wanting the repository to stay relevant in a digital information world	6	6
Strategic objectives of employing institutions	6	6
Support of senior management and legal department (when relevant)	6	6
A preservation strategy	6	6
Reaching non-users of archives – Hill (2004, 139) mentions the ability to reach non-users of archives.	6	6
The potential of building virtual collections that combine resources from different repositories	6	6
Considerations pertaining to the medium-term and long-term sustainability (This is discussed in Oliver (2012, 56)[4].)	6	6
The creator's perceived commercial intent	6	6
The perceived current value of the material; that is, in terms of educational and cultural value as well as monetary value	6	6
Societal needs – Spoo (1998, 185) says that "unpublished works form a rich part of our cultural	6	6

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[4] "The rush to digitize holdings to facilitate access seems to be taking place in a parallel universe with little awareness of concerns about even the medium-term sustainability of the digital surrogates that are being created, let alone the long-term considerations." (Oliver 2012, 56)

Factors (Separated by topic and placed in descending order, under each topic)	Median '1' – Not at all important, '7' – Extremely important	Mode '1' – Not at all important, '7' – Extremely important
heritage and must yield, within the constraints imposed by a limited monopoly, to the larger needs of society."		
Policy and procedure for ensuring prompt response to any request for the removal of material from the Web	6	6
Diminishing "practical obscurity" – Dalgleish (2011, 71) in connection to Danielson (1989, 58), writes that "practical obscurity relates to the number of people who 'practically can access the information and easily match it with other information rather than whether the information is formally available for viewing'." Dalgleish (ibid.) continues: "the effect of making records accessible on the Internet diminishes those practical barriers."	6	-
In the case of 'Orphan Works' factors such as 'Fair Use' or diminished "practical obscurity' due to publication on the Internet	6	-
Awareness creates a demand – Oliver (2012, 56-57) observes that digitization can raise "awareness of the existence of archival records, [and as a consequence] there may be increased demand to see and touch the originals."	5	6
To crowdsource and harness 'user power' – "making digital copies of archives available via the web also facilitates the use of social networking tools to capture the knowledge of users to enhance and enrich archival description" (Oliver 2012, 52).	5	5
Metadata – Oliver (2012, 55) says that scanning may appear to be quick but the addition of relevant metadata is labour-intensive and time consuming	5	5
Compatibility with institutional open access mandates (Hirtle 2009)	5	5
Answering the following question: does the unpublished material fall under the definition of 'Orphan Works'?	5	5
The cost to the repository in terms of staff's training and time that will be required to deal with copyright	5	-

Factors (Separated by topic and placed in descending order, under each topic)	Median '1' – Not at all important, '7' – Extremely important	Mode '1' – Not at all important, '7' – Extremely important
issues (e.g., determining copyright status or tracing rightholders)		
Digitization being a multi-disciplinary concern that is usually not addressed in an appropriate manner (e.g., lack of considering other professions' standpoints).	4.5	-
Change in user profile (i.e., the traditional user of archives used to come from the academia; whereas today users and potential users can also come from the wider public)	4	5
The creativity of the person/people who want to exploit the material	4	-
Fear of possible implications if the material is published on the Internet (e.g., punitive measures)	3	3
Pro bono work – Barlow (2000, last paragraph) says that the institutions that have sufficient resources, "could . . . engage in some *pro bono* work, examining materials in local collections, local museums, and county libraries as well as in their own labyrinthine stacks as they proceed to digitize."	2	2
An opportunity to increase revenue	2	2

Table 4.1 Policy Delphi findings

4.2.4 Comments made by Delphi participants

The researcher noted two of the comments made by participants during the Delphi. As one can see in the second round Delphi questionnaire in appendix G, after rating the factors the participants could write any comments they had.

Participant T5 commented in the first round about the last factor – 'common sense'. The participator wrote: "On 'Common Sense', I would argue that there should be a clear rationale for the decision made rather than relying on a more arbitrary judgment."

Participant H3 when sending the completed questionnaire for the second round of the Delphi wrote: "I noticed a wide diversion on the statement 'The primary purpose of digital copyright law is to protect the investment and/or the skill and effort of the creator of the copyright work.' This may reflect a difference between US and UK law. The Supreme Court in the US has repeatedly reiterated that 'The primary objective of copyright is not to reward the labor of authors, but "to promote the Progress of Science and Useful Arts."'"

Other comments made by participants had more to do with the technical side of the Delphi.

4.3 Objective 3: Israeli copyright law pertaining to placing unpublished material on the Internet

4.3.1 Introduction

The results from the analysis of Israeli copyright law concerning what has to be taken into account when making a decision regarding the digitization and publication of archival material on the Internet are found in section 4.3. This section is the basis for creating the benchmark, which was used when exploring Israeli archival practices.

4.3.2 Description of Israeli legislation on the subject and comments

It is apparent that there are three pieces of legislation that are pertinent to dealing with copyright, when digitizing archival material:

Legislation	Notes
Copyright Act, 2007 (as amended on July 28, 2011)	A summary of all pertinent parts of the legislation can be found in tables in section 4.3.3.
British Copyright Act 1911	Mentioned in the current Israeli Copyright Act ss78 (i), only regarding photographs.
Takanot Zkhut Yotsrim (Sifriyot Varkhiyonim), htshs"t-2008	Contains regulations intended specifically for libraries and archives. The regulations specify six types of archives that can copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007'. These types of archives are found in section 4.3.3 in 'Table 4.6 Israeli Copyright law benchmark – type of archive'.

Table 4.2 Israeli copyright law that covers digitization and publication on the Internet

Regarding Israeli copyright law, WIPO ([2011?]) states that 'Copyright Act, 2007 (as amended on July 28, 2011)' repeals the British 'Copyright Ordinance, 1924' and the 'Copyright Act, 1911' (remnants of the British Mandate for Palestine.). It also supersedes Israeli 'Copyright Act, 2007'. In spite of the above (WIPO [2011?]), in the current Israeli Copyright Act ss78 (i), one finds that when dealing with photographs – the British Copyright Act, 1911, is still pertinent.

What will not be dealt with here are additional provisions in the Israeli law that can be exploited. An example for such a provision is found when dealing with orphan works. In Negin (2008), written from an information professional's standpoint, one finds that "matters

not addressed in the new law include: . . . Orphan works." In Lifshitz-Goldberg (2010, 2. Possible Solutions: Additional Solutions Considered) written from a legal perspective, one reads: "Another solution . . . relates to abandoned property. In *Israel* for example, if the owner of a property is unknown or cannot be located, the court could transfer the management of rights in the work to the appointed "government guardian" who could (inter alia) permit the use of the work."

Another comment concerning the Israeli Copyright Act, is that there is an "adoption of the right of making a work available to the public, which is found in Clause 15 of the law [Copyright Act, 2007 (as amended . . .)]. . . . The main action which this law was created to control is the uploading of works to the Internet or other types of networks to which there is free access" (Greenman 2008).

4.3.3 The benchmark to which Israeli digitization projects are compared

This benchmark was derived from the detailed analysis of Israeli law that is mentioned in table 4.2 (i.e., Copyright Act, 2007 (as amended on July 28, 2011) and Takanot Zkhut Yotsrim (Sifriyot Varkhiyonim), htshs"t-2008).

This benchmark is used for evaluation purposes in the Israeli case studies (see section 3.4).

<u>When researching the case studies one needs to ask the following question/s:</u>

1. Are any of the conditions specified in chapter two – 'Conditions for Subsistence of Copyright', in the Copyright Act, 2007 (as amended . . .) found in the material placed on the Internet? If the answer is 'No' – for all conditions, then copyright is not an issue here; in all other cases, ask question two.

2. Is the digitization of the material and placement on the Internet, permitted according to the current Israeli copyright act?

To answer this question one needs to complete the following tables were appropriate:

a. **The time dimension:**

*Nature of work	*Duration of copyright subsistence in the material	Mark with an 'X' where applicable
Literary, dramatic, musical or artistic work, except a photograph, whose author died on or after 1 January 1921, or a photograph created on or after 25 May 2008 (2007 s38)	Life + 70 years	
Photograph created before 25 May 2008 (1911 s21; 2007 ss78 (i))	Creation + 50 years	
Anonymous work (2007 s40)	Creation + 70 years, or publication + 70 years if published	

*Nature of work	*Duration of copyright subsistence in the material	Mark with an 'X' where applicable
	within 70 years of creation. If the creator is revealed during this period 2007 s38 or s39 apply.	
Sound recording (2007 s41)	Creation + 50 years	
Moral rights (2007 s45)	Same term as the copyright	
State copyright work (2007 s42)	Creation + 50 years	
*These columns were taken from Padfield (2010, 279)		

Table 4.3 Israeli Copyright law benchmark – time dimension

b. Ownership

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
The first owner of copyright (s33)	"Subject to the provisions of this chapter- (1) The author of a work is the first owner of copyright in the work; (2) The producer of a sound recording is the first owner of copyright in a sound recording." (s33)	
Works created by employees (s34)	"The employer is the first owner of copyright in a work made by an employee in the course of his service and during the period of his service, unless otherwise agreed." (s34)	
Commissioned Works	"(a) In work made pursuant to a	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	commission, the first owner of the copyright therein, wholly or partially, shall be the author, unless otherwise agreed as between the commissioning party and the author, expressly or impliedly. (b) In a work which is a portrait or a photograph of a family event, made pursuant to a commission, the first owner of the copyright therein shall be the commissioning party." (s35)	
State ownership of works	'The state shall be the first owner of a work made by, or commissioned for, the	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	State or by an employee of the State in consequence of his service and during the period of his service; In this section, "State employee" – includes soldiers, policemen and any other person who holds a position according to a statute in a State entity or institution." (s36)	
Assignment and licence of copyright	"(a) Copyright may be assigned by contract or by operation of law and the owner of a copyright may grant an exclusive license or non-exclusive license with respect to the copyright.	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	(b) Assignment of the copyright or the grant of a license, as stated in sub-section (a), may refer to the copyright in whole or in part, and it can be limited to a certain territory period of time, or to specific acts with respect to the work. (c) A contract for the assignment of copyright or the grant of an exclusive license therein shall require a written document. (d) In this section, "exclusive license" – means a license granting its holder the exclusive right to do any acts as set forth in Section 11	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	specified by the license, and restricts the owner of the copyright from doing those acts of from permitting others to perform those acts." (s37)	

Table 4.4 Israeli Copyright law benchmark – ownership

c. Permitted use

Permitted use	Mark with an 'X' where applicable
Fair use as determined in s19 of the Copyright Act, 2007 (As amended . . .)	
Reproduction of a work deposited for public inspection as determined in s21 of the Copyright Act, 2007 (As amended . . .)	
Permitted uses and regulations of such uses, in libraries and archives in s30 and s31 of the Copyright Act, 2007 (As amended . . .)	

Table 4.5 Israeli Copyright law benchmark – permitted use

d. Type of archive

Type of archive	Mark with an 'X' where applicable
Archives that are allowed to copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007':	
The Israel State Archives (and its branches) as defined by the Israeli Archives Act, 1955	
A public archive as defined by the Israeli Archive Act, 1955	
Any other non-profit public archive, open to the public	
An archive of a local authority	
An archive of a higher education institution as recognized/authorized/licensed by law	
An archive of a non-profit cultural institution including what is recognized by law as a museum, a theater, or an orchestra	
Archives that are not allowed to copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007':	
Any type of archive not defined in 'Taḳanot Zkhut Yotsrim (Sifriyot Ṿarkhiyonim), htshs"ṭ-2008'	

Table 4.6 Israeli Copyright law benchmark – type of archive

4.3.4 Interviews

Regarding both planned interviews – the interviews with representatives from prominent Israeli public authorities: the researcher was not able to collect interview data, owing to the lawyers' refusal to give ethical consent.

4.4 Objective 4: Current Israeli practice pertaining to copyright in digitization projects

4.4.1 Introduction

The results from section 4.4, provide a glimpse into Israeli current practice. These results consist of two views of each of the three case studies. The first is a description of the content of their websites concerning copyright issues and the second is an interview with a representative from each institution. Both views complemented each other, enabling a better understanding of Israeli practice. This fulfils the second aim, to determine which aspects relating to copyright law, if any, are taken into account in Israeli digitization projects.

4.4.2 Response rate and other descriptive data

All in all, out of seven potential case studies (see section 3.4.3), three agreed to participate and participated in the study. That is a 42.86% response rate.

Searching for more case studies or trying different approaches to invite potential case studies to participate, was not undertaken due to time constraints.

In terms of characteristics, the three case studies are very different from one another:

● Case study 1 (CS1) – A municipality/local authority archive

● Case study 2 (CS2) – A national institution, which houses archives and digitizes their own archives and other Israeli institutions' archives in a number of projects

● Case study 3 (CS3) – An education and research institution's archive which mainly deals with, personal, familial and other Israeli photographic archives

4.4.3 Findings

The findings from the website analysis are found in three appendices, appendix I – appendix K.

In these findings one can see factual data:

● the types of material in which copyright subsists, which are held by each archive

● who owns the copyright to the material

● the answer to the following question: "according to the Israeli Copyright Act, is placing this material on the Internet permitted?"; and

● the type of archive we are dealing with according to 'Taḳanot Zkhut Yotsrim (Sifriyot Ṿarkhiyonim), htshs"ṭ-2008'.

Following the factual data one finds an analysis of the website content. This analysis consisted of answers to questions about each case study (in each case study see "Analysis relating to the interview material"). The purpose of this was to try and glean as much information as possible before the interviews took place with the archives' representatives.

The findings from the interviews are found in three charts in appendix L, as described below. All interviews were conducted in Hebrew. They were recorded, transcribed and translated into English by the researcher. The researcher notes that the translation might have not 'expressed' certain cultural aspects that are present in the Hebrew transcript.

The interview transcripts were analysed using NVivo software. The researcher analysed the texts and determined which issues were mentioned by the interviewees. These topics are referred to as 'nodes'. A list of all nodes is found in appendix H.

It should be mentioned that the list of nodes was developed as the work progressed. One can say that the analysis could have been somewhat different for earlier text, if all nodes were already determined before the analysis began.

The three interviewees gave different emphasis to certain topics and described different realities that related to their work practices. The percentage of coverage of the most frequent nodes was checked, in each source. The sources were coded on two levels. The first was a very general level including nodes such as: Nodes\\digitization, Nodes\\Copyright law\Israeli copyright law, etc. These nodes do not reveal any significant information. The second coding level which was implemented on sections, paragraphs, etc. of the text reveals the themes that came up in the interviews. The 15 nodes with the largest percent of coverage for each source, were derived from 'chart document coding' in NVivo and are found in appendix L.

In Table L.1 CS1 in appendix L – nodes with most coverage, one finds that thirteen nodes have the same percentage of coverage. The reason for this being that these nodes were assigned to the same answer which was an open ended question. This question was the last question in the interview, it asked if there was anything that the archive manager wanted to add to what was said in the interview.

As one can see from the nodes, CS2 decided not to deal with copyright issues in their digitization projects. They decided to relegate the responsibility for copyright to the archives which have their material digitized by CS2. When conducting the interview with the archive manager from CS3, the manager showed the researcher examples of bad practice found on the Internet. These examples were all taken from the material that was digitized and uploaded on to the Internet by CS2. The researcher did not discuss CS2's practices or mention CS2 to CS3's archive manager, prior to the interview. The reason that CS3's manager knew that there was a

problem with CS2's practices, was his knowledge in matters such as photograph resolution and watermarks.

And finally, another legal matter worth mentioning – property rights. Property rights were mentioned by CS3's manager as a major problem. This was an issue that the researcher was unaware of before the interview with CS3's manager. In his words: "But do you know about the issue of property rights? Do you relate to the issue of the right to property? Because this is a very important parameter, it was brought to my attention while working. And . . . this is a very important parameter." The manager then tells the researcher the context in which he found out about property rights. He says: "Then at some stage, when we started dealing with the Internet issue, we said – o.k. let's ask them for permission. Of course they have the negatives. Whoever will want to use these photographs, we will refer them . . . . But permission to show this on the Internet, only with a low resolution and put a watermark and everything. They nearly sued us, 'we are following you,' 'how can you do this?' . . . . As if, what can they do to me? What? What? I also have photographs from the 20s and 30s, so on which grounds are they basing this at all? I went to get legal counselling, and it works out that they can have a reason. Since the source in this case, is the negatives of this photographer . . . . Let's say the source of the printed photographs was in their possession and I received it from them, without having a written letter. . . . One asks to use it – I am not allowed. This is not copyright. Copyright does not subsist in the material any more, but there is a property right . . . ."

4.5 Summary of findings

To recap the results one should return to the aims of the work that are mentioned in section 1.3.1. These being:

1. To specify which factors that relate to copyright should be considered when deciding whether to digitize and publish previously unpublished material on the Internet.

2. To determine which aspects relating to copyright law, if any, are considered in Israeli digitization projects of unpublished material placed on the Internet.

4.5.1 The results of the Policy Delphi

These results identified as many factors as possible that lie between two poles. The first pole being copyright law and the second being access and outreach. This fulfills the first aim as mentioned above.

4.5.2 The analysis of Israeli copyright law

Another objective in this dissertation was to identify Israeli copyright law that covers digitization and publication on the Internet of previously unpublished material. This objective was only partially achieved; nevertheless, it was possible to create a fairly comprehensive benchmark (section 4.3.3).

4.5.3 The results of current Israeli practice

The last objective in this work was to establish current Israeli practices concerning copyright law in digitization projects. To fulfil this objective, a few Israeli case studies were explored. These study cases provided only a partial picture of the Israeli scene.

The following chapter discusses these results.

5 Discussion

5.1 Introduction

The aims of the research were:

- to specify which factors relating to copyright should be considered when making a decision regarding the digitization and publication of archival material on the Internet; and

- to determine which aspects relating to copyright law, if any, are taken into account in Israeli digitization projects of unpublished material. When looking at the pertinent literature concerning the issues related to these aims, one found very little information. Technology was still evolving and the legal issues were not settled. The research was therefore exploratory by nature.

In this chapter the researcher reflects upon the research process and the study's results. This chapter was broken down into subheadings; each subheading being an objective. When planning the research, it was thought that to be able to reach the aims of the research, one needed to fulfill all of the objectives. Under each objective in this chapter, one finds the issues that emerged during the research process and/or the results pertinent to that objective.

5.2 Objective 1: To undertake a systematic literature review

● **Copyright and guidance for archivists**

When searching for sources that would help answer: "What are the factors that need to be taken into account regarding copyright when digitizing archival material and making it available on the Internet?" what was apparent was a lack in guidance for archivists, a lack of appropriate legislation and a lot of information regarding technical issues concerning digitization and publication on the Internet.

The fact that legislation lags behind technical advancement makes it difficult to establish recommendations for best practice for archivists. Legislation is established for an analogue

world but when moving on to digital surroundings many questions remain unanswered and will continue being unanswered, at least, for the near future.

A question the researcher planned to ask one of the civil servants who would not sign ethical consent (see section 4.3.4), was: "What instigates changes in copyright law in Israel?" This is an important question in need of an answer. If the answer would be 'technological advancement' one would know that things might be advancing in the right direction. If the answer would be, for argument sake, 'politics' – one could understand that copyright law will not give an answer to what is happening in reality and the answer, at least in Israel, will have to come from somewhere else; for example, contract law.

This would give an indication regarding what Stokes (2009, 19) wrote and is found in section 2.3: "(g) the jury is still out whether digital copyright has a long-term future or whether technical locks and keys and/or contract law will displace copyright from protecting digital content."

● **Differences in the reasons for the existence of copyright law in the US and Britain**

When writing the literature review, the researcher did not realize that there was a fundamental difference between the US and Britain regarding copyright law.

Some of the factors for the Policy Delphi were derived from the literature review. Since the researcher did not pick up on this difference, she assumed that the underlying reasons for copyright law, as found in the British legal literature applied to the US as well.

As mentioned in the results under section 4.2.3, a comment was received from a Delphi participator from the US who realised that the researcher might not know about the difference. Finding out about such a difference at this stage did not instigate a change the factor in the following round's questionnaire but it changes the context in which one can interpret the results

from this factor[5]. One can understand that the rating was probably given according to the nationality or place of employment of the participants.

If the researcher would have discovered this difference at the literature review stage, she would probably have expressed the factor differently. It would have been more appropriate to write the two versions of the factor – both the British and the American and then ask each participator to answer according to where they are employed.

● **Covering a Multi-disciplinary issue**

The issue researched is a multi-disciplinary issue. In order to get as full a picture as possible, the researcher browsed through material from other disciplines besides Information Management; for example, law. This can be viewed as problematic since one might argue that the researcher is not an expert in other fields and therefore might interpret what she reads incorrectly.

With this in mind, the researcher still read and incorporated sources from other disciplines, since she thinks that the benefit of trying to see things from someone else's viewpoint, outweighs the risk of not understanding them or distorting their viewpoint. If one does not make an effort, one will never know what professionals from other disciplines see. As a consequence, one would see only part of reality or a distorted reality.

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[5] The factor being: "'The primary purpose of digital copyright law is to protect the investment and/or the skill and effort of the creator of the copyright work' (Stokes 2009, 19)."

5.3 Objective 2: To identify a framework that will be a basis for determining best practice

● **The Policy Delphi results**

Since a Policy Delphi is qualitative research, the number of participants is not as important as in quantitative research. An elaboration on this point is found in the Methodology chapter in section 3.2.6. The fact that the researcher 'only' managed to recruit five participants and not the eight she hoped to recruit, is a relative weakness of this study. On the other hand recruiting participants from different countries contributes to the robustness of the results (see 3.2.6). Attempts to recruit legal professionals to the panel to increase the robustness of the research were unsuccessful. This would have increased the diversity in the perspectives the participants hold and contributed to a fuller and more balanced picture of reality.

Regarding the Delphi results (section 4.2.3), and the use of the median and the mode, it is regrettable that the researcher could not find in the Delphi literature, a better way than calculating the mode to show if there was a consensus or not, for each factor. In addition it would be beneficial to know how "stable" a consensus is; for example, did two participants agree with each other or did all five members of the panel agree.

● **Common sense**

A reason for writing this work is the lack of guidance for archivists regarding issues discussed in this work. The legal side of the issues is still evolving and cannot give a sufficient answer to technological advancement. At least until the legal side is settled one cannot know what they are dealing with. This means that at the moment, no one knows exactly what they are up against and if using 'common sense' is what is needed to arrive at best practice for archivists.

In the Delphi, one of the factors was 'common sense'. Four out of five participants gave it the highest rating, '7 – extremely important'. The fifth participant wrote a comment: "On

'Common Sense', I would argue that there should be a clear rationale for the decision made rather than relying on a more arbitrary judgment."

In the opinion of the researcher, it is necessary to explain to people that until there is a solid basis for making decisions, resorting to using 'common sense' seems like a quick fix or wishful thinking. There might be place to explore participants' 'hopefulness' or premature optimism, in a context of decision making.

5.4 Objective 3: To identify Israeli copyright law with regard to the digitization of unpublished material

No ethical consent

The most difficult point during the research process was the refusal of the representatives from the prominent Israeli public authorities, to give ethical consent. This was not a problem anticipated while planning the research.

The researcher assumes that the refusal occurred due to a lack of awareness of the importance of ethical consent in the research process combined with a cultural problem – Israelis' informal manner. Another reason that comes to mind, which could have caused the refusal might be connected to the official or unofficial contract or working relationship, between the authorities and their employees who refused to sign.

The way to deal with this problem might be by browsing through the literature that contains interviews with civil servants in Israel. One should be looking in the methodology of these researches for how civil servants where approached, and in the results for what the outcomes were. This should provide some clues about how one might be able to proceed.

5.5 Objective 4: To establish current Israeli practice pertaining to copyright law – in digitization projects

● **Remaining objective**

The researcher did her utmost to stay objective while conducting the interviews. She found staying objective challenging while conducting the interview with CS2[6]'s representative. The researcher was told that CS2 had relegated the responsibility for copyright issues to the other archives participating in their projects. That meant that the issue of copyright would not be addressed properly and might put the archives working with them, at risk of copyright infringement. What was also apparent from the interview, was that the entire issue of copyright was considered 'a bother' by CS2 when regarding their digitization projects, due to time consumption. They were in a hurry to press ahead with the projects for political reasons.

● **Triangulation**

Analyzing the content of each case study's website and conducting an interview with a representative from each case study, was a constructive way of conducting the case study research (section 3.4.5). The website analysis and interviews complemented each other. On one hand, the researcher could get clarifications regarding website content while conducting an interview. And on the other hand, she could use information gleaned from the website to clarify issues during an interview.

● **The three case studies' characteristics**

 The three case studies had different characteristics. CS2's digitization projects are done on a national level with part of the funding being governmental. They want to make the national legacy available to the public. Many small archives join these projects, so that their collections would be digitized. Their incentive to digitize seems to be a financial one. The researcher could

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[6] This acronym is first mentioned in section 4.4.2.

not verify this since she did not interview any representatives from archives that have joined CS2's projects. Invitations were sent to some of these archives, as part of the invitations she sent out to the potential case studies (see sections 3.4.3 and 4.4.2). These archives declined to respond to the invitations.

CS1's and CS3's digitization projects were on a much smaller scale. CS1 has not digitized much. The big bulk of digitization will be done in the future and then they will address copyright issues, such as policy. CS3 is in the midst of digitizing photographs. CS3's manager has already gained experience form the digitization process and has implemented lessons that were learned. With this it should be mentioned that on CS3's website there is copyfraud, it says that all photographs are under copyright. After the interview CS3's manager said that this will be corrected.

5.6 Validity and reliability of findings

This research is essentially qualitative; therefore, the researcher would have preferred to use an alternative to validity and reliability. She thinks that they are more suited to a quantitative stance.

The researcher made a point of being as candid with the readers of this work, and described all significant findings and events that happened during the research. That transparency was intended to serve as a kind of external reliability.

Regarding internal reliability: on one hand, there was a disadvantage seeing that only one researcher performed the research. On the other hand, employing software such as QSR NVivo 10 enabled greater consistency in the content analysis.

One of the strengths of this research lies in its internal validity, which is a strength of qualitative research. This is apparent especially in the case studies and the Delphi. Each case study described the unique reality of that case study. And when it comes to the Delphi, the

participants had no pressure imposed on them – to conform. The researcher tried to reach a dissensus in the Delphi.

External validity or the ability to generalize – the researcher thinks that even if the Policy Delphi results are not 'robust' enough due to having only five participants instead of eight – it could still be used as a basis for further research. 'Numbers' are not very important in qualitative research. When it comes to the case studies, the researcher thinks that researching more case studies would have provided a better picture of the Israeli scene.

5.7 Summary

This chapter mentioned significant issues that emerged during the research process. As in everything one does, there are shortcomings in this research. These are elaborated upon in this chapter. Amongst them one can include: inability to receive ethical consent from representatives of prominent Israeli public authorities and overlooking a difference in copyright law between the US and the UK when writing the literature review. Strengths of the research can be found in using triangulation and having the Delphi panel include representatives from different countries.

Additional issues mentioned in this chapter include, amongst others: the research being of a multi-disciplinary nature and the researcher trying to stay objective.

In the following chapter one can find the conclusions deriving from this study.

6 Conclusion

6.1 Introduction

This chapter gathers all the threads of this study together. It points to the main findings and their potential further uses.

6.2 The findings

The findings of this research:

1. The first aim of this research was to specify which factors relating to copyright should be taken into account when making a decision regarding the digitization and publication of previously unpublished material on the Internet. This aim was achieved. Although the results are not as robust as wished for.

The results of the Policy Delphi constitute a framework that is a basis to determine best practice. They include the factors and their relative weight by means of the median and mode.

Awarding the highest scores to the irrelevance of copyright to archival material and digitization as an access tool, show an underlying feeling of a 'lack of enthusiasm' among archivists to deal with copyright law, and a desire to get on with what really matters – digitization. The list of factors and their ratings seem to be very characteristic of how archivists might think and it would be beneficial to conduct a further Delphi that would include additional perspectives such as legal professionals' perspectives.

One should also remember that the legal side of the tension between outreach and access, and copyright law, is not fully-fledged, at present; therefore, in the future it might be necessary to update the Delphi research.

2. The second aim of this research was to determine which aspects relating to copyright law, if any, are taken into account in Israeli digitization projects of unpublished material placed on the Internet. This aim was only partially achieved.

To reach this aim two objectives needed to be fulfilled:

● to identify Israeli copyright law with regard to the digitization of unpublished material, and

● to establish current practice in digitization projects in Israel in relation to copyright law.

The first of the two objectives was accomplished (see section 4.3, especially table 4.2) and a benchmark to which case studies were compared was created (sub-section 4.3.3).

Concerning the second objective – the researcher studied three Israeli case studies. The findings from the three case studies include the findings in section 4.4.3. These are by no means exhaustive of the Israeli scene. An example of what was missing in this study could be an additional case study that partnered with CS2 – the national organization that digitizes archival collections of many Israeli archives.

The picture that emerges from the three case studies shows a differing amount of awareness to copyright issues. In CS2 it shows that politics can be a factor in the decision process regarding copyright. In CS2's case, digitization is driven by a political agenda. This 'agenda' also 'enables' CS2 to relegate the responsibility for copyright to others.

From CS1 and CS3 one can learn that experience in dealing with issues concerning copyright and digitization leads to 'improved' decision making.

6.3 Potential future research

1. As mentioned in section 3.2.5, De Loë wrote: "an important shortcoming of the policy Delphi is a tendency to breadth but not depth in the survey process. Therefore among the guidelines offered is the suggestion that policy Delphi surveys should be used as precursors to workshops or interviews." De Meyrick (2003, 12) added: "the solutions are then examined in depth by the experts and consensus reached on the one most appropriate."

Now that the factors are named and given their respective weights, they can be used for the first questionnaire in a further Delphi that will include participants from additional disciplines, such as law. This needs to be followed by a 'refinement' of the results of the Policy Delphi for the international and national scenes and a consensus needs to be reached concerning the final lists of factors to be taken into account. Doing that will enable issuing, both national and international guidelines for archivists.

2. Researching additional case studies from Israel would provide a more complete picture of Israeli practice. The framework set out in this study should be able to serve the research of further case studies.

3. It would be beneficial to interview the legal expert in charge of copyright law in the Ministry of Justice in Israel. It is important to know what initiates the changes in copyright law in Israel. The answer to this question could give some insight as how to deal with the tension between copyright and outreach and access, when working in Israel.

4. Similar frameworks for researching the situation in other countries, besides Israel, could be developed by using parts of this research.

6.4 Summary

This chapter concludes the research. Here we revisited the aims we set out at the beginning of the process and saw what was and was not accomplished. Based on this, suggestions were made for further research; for example developing national and international guidelines for archivists.

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[7] The reference list was done in accordance with The Chicago Manual of Style author-date system.

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Appendix A: Glossary for the Policy Delphi

Archival description/description: "The act of establishing intellectual control over archives by creating finding aids or other access tools that identify the content, context and structure of archives, supporting a better understanding of the nature of the archival materials and facilitating access to holdings" (Millar 2010, 262).

Copyfraud: The term "copyfraud" originates from Mazzone (2006, 1028) where he writes: "Copyfraud . . . refers to claiming falsely a copyright in a public domain work. These false copyright claims, which are often accompanied by threatened litigation for reproducing a work without the putative "owner's" permission, result in users seeking licenses and paying fees to reproduce works that are free for everyone to use, or altering their creative projects to excise the uncopyrighted material."

Fair Use: "Fair use may be a better rationale for creating a copy or publishing a copy of a document. If a use can be supported by a balance of the four factors considered for determining fair use—the purpose, nature, amount, and effect of the use—the use does not infringe upon an author's copyright and permission of the holder is not necessary. Whether or not the copyright holder is known is immaterial" (SAA 2009, 2).

Median: Median is the number (in this case the rating) that is placed in the middle of a sorted list of numbers. The median of the following list: 3, 3, <u>5</u>, 6, 7 is 5. The number 5 is 3rd in a sorted list of 5 numbers. In the case where a sorted list has an even number of numbers, one takes both of the numbers placed in the middle of the list, adds them and divides the total by 2. The median of the following list: 2, 3, <u>5</u>, <u>7</u>, 7, 7 is: (5+7)/2 = 6.

Mode: Mode is the number or in this case, the rating that appeared most frequently amongst all ratings. If there is no rating that is more frequent than any other rating, for example in a case where each rating appeared only once, there will be no mode.

Moral Rights: Padfield (2010, 227) writes that "moral rights are the rights, even more intangible than copyright, that attach to the author's personality as expressed in his or her work. They recognize that the products of the human mind and spirit are so closely tied to the personality of the author that protection is needed, since the corruption of the one inevitably damages the other." Stokes (2009, 71) writes on this matter that "author's works should not be altered or distorted in a manner prejudicial to the author. To mistreat the work is to mistreat the author, to invade his privacy and impair his personality. . . ."

Orphan Works: "A term used to describe works which are, or may be, still in copyright but whose owner is impossible to identify or trace" (Padfield 2010, 94)).

Appendix B: An Interview Guide:

The Description of Israeli Copyright Law in Regard to Digitization of Unpublished Material

This interview guide was intended to be used in both interviews.

Seeing that Israeli copyright law talks about publishing previously unpublished material on the Internet, the questions are as follows:

1. What does the Israeli copyright law say about publishing previously unpublished material – on the Internet? Please include/mention the appropriate references to pertinent legislation.

2. When last was there a significant update in copyright law concerning the digitization/publication of previously unpublished material?

3. Is this legislation being up-dated in tandem with technological advancement? Or is it being up-dated periodically? Are there other motives/reasons/incentives that drive changes in the legislation? If so what are they? (Only to ask if pertinent)

4. Who enforces the legislation?

5. What kind of sanctions may one expect if there is a breach of the law?

6. Do you think the legislation is appropriate/sufficient? (This might not be an appropriate question to ask the lawyer from the Ministry of Justice.)

7. Once material is digitized (e.g., for preservation) there may be a partial/full "loss of control" over what happens to it. Is this subject treated in the current law? If so, how is it treated? Is there any (further) legislation planned regarding this issue?

8. Please name improvements you would like to see in legislation, or in control over what is practiced?

9. To the best of your knowledge, have there been any lawsuits regarding this subject/issue? If so, what have the outcomes been?

10. In the archival literature (articles), one finds that some of the writers are opposed to applying copyright law to archival material. This view relates to that that archival material, in most cases, was not created for a profit – in most cases. How do you view this issue? Do you think something will change regarding this matter in the future?

Appendix C: An Interview Guide for the Israeli Case Studies

Reasons for the digitization:

● What were your reasons for undertaking the digitization project/s?

Ownership:

● Before starting/beginning a digitization project, did/do you establish copyright permissions?

Policy, procedure, strategy – the big picture:

● Have you got a policy that deals with removal of material from the web? Yes/No

● How do you deal with orphan works? /What are your policies on orphan works?

Precautions:

● Which measures were taken to ensure that the material will only be used according to what is permitted legally or in accordance with what was agreed with the copyright owner?

Impact on workload planning and resources:

● What was the cost (i.e., monetary, in terms of staff training and time) that was required to deal with copyright issues (e.g., determining copyright status or tracing rightholders)?

General Questions:

● Have you got anything else you would like to add, that is pertinent to the subject and was not mentioned?

● Would you like to receive a copy of the results?

Appendix D: Consent form (Policy Delphi)

Title of project: Master's Dissertation: *Copyright Issues and Israeli Practice in Digitizing Archives.*
Name of researcher: Naomi R. Wolff
Project authority: This research project is being undertaken as part of a Master's in Information Management from Aberystwyth University.

	Please tick
1. I have read and understood the information letter and the researcher has explained the study to me.	☐
2. After reading the information letter, I understand that my confidentiality and a slightly limited version of my anonymity – quasi-anonymity, will be respected in this study.	☐
3. I have received enough information about what my role involves.	☐
4. I understand that my decision to consent is entirely voluntary and that I am free to withdraw from the study at any time without having to give a reason.	☐
5. I consent to participate in this study about *Copyright Issues and Israeli Practice in Digitizing Archives*.	☐
6. I agree that the data I provide may be used by Naomi R. Wolff, within the conditions outlined in the *Information Letter*.	☐
7. I agree to the use of any anonymised direct quotes in the dissertation.	☐
8. In case of concern or query I have been given the contact details of the researcher and the University of Wales, Aberystwyth.	☐

Name of participant (IN BLOCK ETTERS)	**Signature**	**Date**
Name of researcher (IN BLOCK LETTERS)	**Signature**	**Date**

Please return this Consent Form to: nrw09@aber.ac.uk

Appendix E: Cover Letter: Policy Delphi – First Round

Title of project: Master's Dissertation: *Copyright Issues and Israeli Practice in Digitizing Archives.*

Name of researcher: Naomi R. Wolff

Project authority: This research project is being undertaken as part of a Master's in Information Management from Aberystwyth University.

This letter answers questions about the study. Please read it before signing the Consent Form.

What is the Policy Delphi study? "The Delphi Method is a communications structure aimed at producing detailed critical examination and discussion, not at forcing a quick compromise" (Turoff and Hiltz 1996, 56-57)[8]. The Policy Delphi is a type of Delphi that aims at dissensus. By using the Policy Delphi this research tries to glean all factors relating to access and outreach and copyright, which need to be taken into account when deciding whether to digitize previously unpublished material, on the Internet.

What does the research involve? The research involves filling out three questionnaires (three rounds). You will be given two weeks to complete and return each questionnaire. We will also enable you to send us feedback about the process. This feedback can help us improve the process. Between rounds there will be a short period of time in which the researcher processes the results of the previous round and prepares the next round's questionnaire.

What will happen if I agree to take part? Shortly after receiving your filled out Consent Form, the first round's questionnaire and a demographics questionnaire will be sent to you for completion.

What data will be collected? The data collected are your responses to the questions in the different Delphi rounds and details about your professional background that might be pertinent when comparing answers of experts with similar or dissimilar backgrounds.

What will happen to the data? The data obtained from the first two rounds is used to produce the questionnaire for the following round and the data from the last round is used to specify which factors relating to copyright or pertaining to outreach and access, should be taken into account when making a decision regarding the digitization and publication of previously unpublished material on the Internet.

The data will be kept with pseudonyms on my PC. Some of the data will be printed and kept with pseudonyms under lock and key.

Will my anonymity and confidentiality be respected? If you are from the archival sphere, on one hand, your anonymity cannot be completely guaranteed due to the fact, that

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[8] Turoff, Murray, and Starr Roxanne Hiltz. 1996. "Computer-Based Delphi Processes." In *Gazing into the Oracle: The Delphi Method and its Application to Social Policy and Public Health*, edited by Michael Adler and Erio Ziglio, 56-85. London: Jessica Kingsley.

there are only a small number of copyright experts originating from this sphere. On the other hand the other participants in the Delphi will not be able to accredit answers to a specific member of the panel. Therefore, in this research you are offered what is called quasi-anonymity.

In this study the utmost will be done to maintain your confidentiality and comments you make will not be associated to your name in subsequent publication.

What happens when the research study stops and how will I find out the results? After your participation in the Delphi ends, you will receive a letter that includes a summary of the Delphi results.

Where will one be able to see a copy of the dissertation? As part of the last stage in preparing the dissertation, two printed copies and one electronic copy saved to a removable medium are submitted to The Department of Information Studies at Aberystwyth University. One of the hard copies will be placed in the department's library.

If appropriate, publication of the dissertation might be considered.

What if you change your mind? You can choose to withdraw from the research at any time before it is submitted to Aberystwyth University by contacting the researcher or the university. In this case, all records of your involvement in the research will be deleted.

Who do I contact if I have any concerns or queries? You can contact me in the following way: E-mail: nrw09@aber.ac.uk.

What if I don't want to talk to the researcher? If you have any concerns or queries that you wouldn't feel comfortable sharing with the researcher, you can contact the University at: Department of Information Studies, Llandbadarn Fawr, Aberystwyth, Ceredigion, SY23 2AS, Wales, UK. Phone: +44 1970 622188. E-mail: dis-dept@aber.ac.uk.

Appendix F: Results from the third round Policy Delphi

Table for the results from the first question:

Factor in 1st round	Factor in 2nd round	Factor In 3rd Round	Median	Mode	1R	2H	3H	4S	5T	1	2	**3**	4	5
1	1	1	4	4	4	5	3	4	4	3	4	4	4	5
2	2	2	5	-	3	7	1	5	6	1	3	5	6	7
3	3	3	3	-	1	-	5	-	-	-	-	1	5	-
4	4	4	3	-	3	4	2	3	2	2	2	3	3	4
	5	5	5	5	2	7	5	5	-	-	2	5	5	7
5	6	6	5	5	2	5	5	5	2	2	2	5	5	5
6	7	7	7	7	7	7	7	7	6	6	7	7	7	7
	8	8	5	5	5	5	4	5	5	4	5	5	5	5
7	9	9	2	2	2	2	3	4	2	2	2	2	3	4
8	10	10	2	2	2	2	2	2	2	2	2	2	2	2
9	11	11	4	5	5	2	3	5	4	2	3	4	5	5
10	12	12	6	6	6	7	6	7	6	6	6	6	7	7
	13	13	6	6	6	6	7	6	3	3	6	6	6	7
	14	14	6	6	6	6	6	6	5	5	6	6	6	6
	15	15	6	6	4	6	6	6	6	4	6	6	6	6
11	16	16	6	6	6	2	6	5	6	2	5	6	6	6
12	17	17	5	6	5	3	6	4	6	3	4	5	6	6
13	18	18	5	5	5	3	5	6	5	3	5	5	5	6

Factor in 1st round	Factor in 2nd round	Factor In 3rd Round	Median	Mode	1R	2H	3H	4S	5T	1	2	3	4	5
14	19	19	6	6	7	6	5	6	6	5	6	6	6	7
15	20	20	7	7	7	7	7	7	7	7	7	7	7	7
16	21	21	2	2	6	2	2	5	2	2	2	2	5	6
	22	22	6	6	6	6	6	6	5	5	6	6	6	6
	23	23	2	2	3	2	2	3	2	2	2	2	3	3
	24	24	5	-	4	6	4	6	5	4	4	5	6	6
17	25	25	5	5	3	5	5	5	4	3	4	5	5	5
		26	5	5	5	5	6	5	-	-	5	5	5	6
18	26	27	6	6	6	7	5	6	6	5	6	6	6	7
19	27	28	4.5	-	5	6	3	4	-	-	3	4	5	6
20	28	29	6	-	7	7	5	5	6	5	5	6	7	7
	29	30	6	6	7	5	6	6	6	5	6	6	6	7
	30	31	6	6	6	6	6	6	7	6	6	6	6	7
21	31	32	4	-	4	3	3	5	4	3	3	4	4	5
22	32	33	6	6	6	6	7	6	6	6	6	6	6	7
	33	34	6.5	-	6	7	6	7	-	-	6	6	7	7
23	34	35	3	3	2	3	4	3	5	2	3	3	4	5
24	35	36	5	5	5	5	3	5	5	3	5	5	5	5
25	36	37	6	-	6	7	6	5	5	5	5	6	6	7

Factor in 1st round	Factor in 2nd round	Factor In 3rd Round	Median	Mode	1R	2H	3H	4S	5T	1	2	**3**	4	5
	37	38	6.5	-	6	7	6	7	-	-	6	6	7	7
		39	6	6	7	6	6	7	6	6	6	6	7	7
26	38	40	7	7	7	7	7	7	3	3	7	7	7	7

Table F.1 Third round Policy Delphi results

What one finds in this table: The first three columns on the left refer to the order of the factors in the respective Delphi rounds. The following two columns are the medians and modes derived from the participants' answers in the third round. The next five columns are the scores given to each factor by the five participants. The last five columns are the scores in ascending order.

Appendix G: Second Policy Delphi questionnaire

Factors relating to copyright and outreach and access, that should be taken into account when deciding about the digitization and publication of previously unpublished material on the Internet

Policy Delphi Round 2

Please answer the following two questions:

Question 1: Rate each factor below according to its importance in making the decision to digitize and publish previously unpublished material – on the Internet. This is done by assigning a number between one and seven, to each factor. Click on "Choose an item." then scroll and click to place your choice for each factor you want to rate. Most of the factors you are asked to rate appeared in the first questionnaire, and the rest of the factors were derived from the feedback received from the Delphi's participants. Accompanying the factors you will find your ratings from the first round, and the medians and modes of the ratings given by all the Delphi's participants.

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
Factors relating to copyright law				
Digital copyright law is still evolving			4	-
"The primary purpose of digital copyright law is to protect the investment and/or the skill and effort of the creator of the copyright work" (Stokes 2009, 19).			5	2
"Unfinished legislative business includes better ways of dealing with international copyright disputes" (Stokes 2009, 19).			5	-
According to Stokes (2009, 19), there is uncertainty "whether digital copyright has a long-term future or whether technical locks and keys and/or contract law will displace copyright from protecting digital content."			3	2

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
The possibility that technical locks and keys might discourage some users				
"The nature of the internet as a global communications medium makes copyright, an essentially territorial right which differs from country to country, very difficult to apply" (Padfield 2010, 175).			5	5
Irrelevance of copyright to the creation of most unpublished material: Archival material is different from material created for commercial exploitation and/or publishing; however copyright law does not recognize that difference (According to Hirtle (2001, 263-64) and Dryden (2006, 180)).			7	7

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
An assessment of the direction copyright law is taking. (i.e., the prediction of the kind of use that will be allowed when dealing with unpublished copyright works).				
'Copyfraud' – see the glossary			2	2
Moral Rights – Internet users might not respect moral rights of creators of material published on the Internet.			2	2
Other factors				
Change in user profile (i.e., the traditional user of archives used to come from the academia; whereas today users and potential users can also come from the wider public)			4	-
Supporting outreach			6	-
Wanting the repository to stay relevant in a digital information world				

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
Strategic objectives of employing institutions				
Support of senior management and legal department (when relevant)				
A preservation strategy			5	5
Awareness creates a demand – Oliver (2012, 56-57) observes that digitization can raise "awareness of the existence of archival records, [and as a consequence] there may be increased demand to see and touch the originals."			5	5
To crowdsource and harness 'user power' – "making digital copies of archives available via the web also facilitates the use of social networking tools to capture the knowledge of users to enhance and enrich archival description" (Oliver 2012, 52).			5	-

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
Reaching non-users of archives – Hill (2004, 139) mentions the ability to reach non-users of archives.			6	-
Digitization as an access tool – according to Millar (2010, 199) digitization is an access tool			6	-
Pro bono work – Barlow (2000, last paragraph) says that the institutions that have sufficient resources, "could . . . engage in some *pro bono* work, examining materials in local collections, local museums, and county libraries as well as in their own labyrinthine stacks as they proceed to digitize."			2	2
The potential of building virtual collections that combine resources from different repositories				
An opportunity to increase revenue				

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
The cost to the repository in terms of staff's training and time that will be required to deal with copyright issues (e.g., determining copyright status or tracing rightholders)				
Metadata – Oliver (2012, 55) says that scanning may appear to be quick but the addition of relevant metadata is labour-intensive and time consuming			5	3
Considerations pertaining to the medium-term and long-term sustainability (this is discussed in Oliver (2012, 56)[9]).			6	6

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[9] "The rush to digitize holdings to facilitate access seems to be taking place in a parallel universe with little awareness of concerns about even the medium-term sustainability of the digital surrogates that are being created, let alone the long-term considerations." (Oliver 2012, 56)

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
Digitization being a multi-disciplinary concern that is usually not addressed in an appropriate manner (e.g., lack of considering other professions' standpoints).			5	-
Diminishing "practical obscurity" – Dalgleish (2011, 71) in connection to Danielson (1989, 58), writes that "practical obscurity relates to the number of people who 'practically can access the information and easily match it with other information rather than whether the information is formally available for viewing'." Dalgleish (ibid.) continues: "the effect of making records accessible on the Internet diminishes those practical barriers."			6	7

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
The creator's perceived commercial intent				
The perceived current value of the material; that is, in terms of educational and cultural value as well as monetary value				
The creativity of the person/people who want to exploit the material			4	4
Societal needs – Spoo (1998, 185) says that "unpublished works form a rich part of our cultural heritage and must yield, within the constraints imposed by a limited monopoly, to the larger needs of society."			6	6
The relationship of the holding institution with the rightholders; that is, the original deposit terms				
Fear of possible implications if the material is published on the Internet (e.g., punitive measures)			3	-

Factors	Rating of importance (1-7) '1' – Not at all important, '7' – Extremely important and if you have no opinion do not rate	Your rating in the first round	Median (See the glossary)	Mode (See the glossary)
Answering the following question: does the unpublished material fall under the definition of 'Orphan Works'?			5	5
In the case of 'Orphan Works' factors such as 'Fair Use' or diminished "practical obscurity' due to publication on the Internet			6	6
Having to determine the amount of sensitive data contained in a collection and closing, such data, before digitization				
'Common sense'			7	7

Table G.1 First question second round Policy Delphi

Question2: Please list any further factors not mentioned in the previous question, that you think should or may also be taken into account in regard to access and outreach and copyright law. Please rate each factor you mention as instructed in question 1 above, assigning a number between one and seven, to each factor. Click on "Choose an item." then scroll and click to place your choice for each factor.

Factor	Rating of Importance
	Choose an item.
	Choose an item.
	Choose an item.
	Choose an item.
	Choose an item.
	Choose an item.
	Choose an item.

Table G.2 Second question second round Policy Delphi

Any comments you may have:

Appendix H: Case Studies interview node list:

Name	Sources	References
abuse of power	1	5
agreements or contracts	2	6
aims	0	0
21st century platform	1	1
fulfills archive's duty	1	1
impart knowledge	1	1
apologize	1	1
archive	1	1
financial incentive for the archive	2	2
originating archive	1	2
giving advice to originating archive	1	1
referral to originating archive	1	2
terms of originating archive	1	1
archivists	2	2
archivists' image	1	1
damage to archivists' image	1	1
not archivists doing digitization	2	2
ask to be informed (by the users)	1	1
authority	1	1
awareness	1	1
having an awareness	1	1
blocking material from the start	1	2
catalogue	0	0
detailed catalogue	0	0
not having a detailed catalogue	1	1
caution	3	12
condition	1	1
control	0	0
lack of control	1	4
Copyright law	3	12
copyfraud	1	3

Name	Sources	References
copyright law being limiting	2	5
deciding not to deal with copyright	1	1
draconian copyright law	1	1
enforcing	1	1
lack of enforcement	1	2
engage in activities regarding copyright law	1	1
fair use	2	4
Israeli copyright law	2	13
referral to Israeli copyright law	2	16
law-abiding	2	2
not related to copyright law	1	1
permissions	1	2
establishing copyright permissions	3	3
subsistence of copyright	1	4
no subsistence of copyright	3	10
not sure if copyright subsists in material	1	1
the complexity of copyright law	1	2
cost (money, time, etc.)	2	4
affordable	1	2
budget	1	1
funds	1	4
government funding	1	2
national institution funding	1	2
public funding	1	1
cost being too high	2	2
minimal cost	2	3
money	2	3
money runs out	1	1

Name	Sources	References
not being a priority	1	1
payment	1	1
time	1	1
digital age	1	1
digitization	3	3
digitization being the only concern	1	1
digitization center	1	2
digitization project	3	8
being a given fact	1	1
collaboration	2	8
delay in digitization project	1	1
digitization project could have not existed	1	2
early stages of placing digitized material on the Internet	1	1
national digitization project	1	3
on a national level	1	1
political interests the driving force behind the digitization project	1	1
progress in digitization project	1	1
stage of uploading to the Internet	1	1
reasons for digitization	3	7
dignity afforded the dead	1	5
document - existence of	1	6
education	1	1
educating oneself	1	1
further education	2	2
effort	1	1
making an effort	1	5
experience	1	5

Name	Sources	References
learn from experience	1	2
less experience	1	2
no experience	1	1
image	0	0
trying not to frighten	1	1
trying to maintain a positive image	1	1
implications	1	1
initiative	0	0
active	1	1
passive	0	0
Institute	1	4
Internet	3	3
educational websites	1	1
research websites	1	1
interviewee looking very uncomfortable	1	1
issue	1	1
avoiding the issue	1	2
important issue	2	2
sensitive	2	4
judgment	0	0
no use of judgment	1	1
lack	1	1
lack of funds	1	2
lack of infrastructure	2	2
legal counsel	1	2
good relationship with legal counsel	1	1
reliance on legal counsel	2	3
legal team	1	1
material	2	2
a lot of the material	2	2
archival material	2	3
all archival material in Israel	1	1
cataloguing archival material	1	1
as old as possible	1	1
audiovisual material	1	1
audio	1	1
digital copies	1	1
family collection	1	3
heritage material	1	1
maps	1	1

Name	Sources	References
material having no limitation in regard to copyright	1	1
material in which copyright was given to the archive	2	2
material's source	1	1
knowledge of material's source	1	1
not housed in the institution's archive	1	1
not uploading material	1	1
photographs	2	21
photograph collection	2	14
private collections	1	1
retrievable material	1	1
rights in the material or owner's rights	2	6
property rights	1	8
right to privacy	1	2
use rights	1	8
type of material	1	1
orphan works	3	4
orphan works as small scale problem	1	1
outreach and access	3	9
importance of outreach and access	2	3
limited outreach and access	1	1
ownership	1	15
copyright owners	1	3
copyright owner not caring	1	2
material owners	1	5
not having ownership	1	1
permission	2	11
ask for permission	1	9
no permission	1	6
policy	2	22
blocking photographs	1	5
each item accompanied by	2	2

Name	Sources	References
details of ownership, originating archive, etc.		
each item having a disclaimer	1	1
guidelines	1	2
existence of guidelines	1	1
having to contact the archive for further permission or use	1	2
lack of enforcement	1	1
No official policy exists	1	2
originating archive receiving digitized copy	1	1
photograph resolution	1	5
average resolution	1	3
different resolution for photographs depending on the originating archive	1	1
low resolution	1	2
not going to upload high quality photographs	1	1
predicting most archives would want a medium-low resolution for photographs	1	1
the originating archive responsible for dealing with requests for better resolution photographs	1	1
will upload high resolution photographs if originating	1	2

Name	Sources	References
archives do not object		
policy for removal from the Net	2	3
no written policy for removal from the Net	1	1
procedure	1	1
unofficial policy	2	9
watermark	1	6
prediction	1	1
preservation	2	2
long-term preservation	1	1
privacy	1	5
not about privacy	1	2
problem	2	4
existence of other problems (not relating to copyright law)	1	3
having a problem	2	19
legal problem (in general)	1	1
less problematic	1	6
not having a problem	3	10
professional	2	2
specialty	1	1
protection	1	2
purposes	0	0
commercial purposes	1	3
marketing purposes	1	1
not for marketing purposes	1	1
receiving	1	1
not receiving	1	1
response	2	3
might remove from the Internet	1	1
promise to take action	2	2
take orders from the originating archive	1	1

Name	Sources	References
will definitely remove the material from the Internet	2	3
will take action	2	3
responsibility	1	2
do not want responsibility	1	5
gradual responsibility	1	1
responsibility belonging to originating archive	1	6
risk	1	2
mitigating risk	2	3
not willing to take a risk	1	1
all the risk belongs to the originating archive	1	1
willing to take a risk	0	0
salvation of material	1	1
social media	0	0
Facebook	1	1
technical details of how the system is structured	2	9
thought put into making the system flexible	2	2
the Israel Archives and Information Association	1	1
membership	1	1
time line	1	5
future	1	3
users and use	2	16
limited use	1	3
need to specify the type of use	1	1
non-commercial use	2	2
encouraging non-commercial use	1	1
private people	1	1
researchers	2	3
terms of use	1	3
the wider public	3	8

Name	Sources	References
user friendly	1	2
users' complaints	1	1
virtual exhibitions	1	1
vision	1	1
vulnerable	2	3
work	0	0
working hard	2	3
workload	0	0
considerable workload	2	3

Table H.1 Case Study nodes derived from the interviews

In this table:

The "Name" column contains the node names. The "Sources" column depicts how many of the three interviews included the specific node. The "References" column relates to the number of times the researcher assigned the specific node to the content found in all sources. This measure is not entirely consistent. One of the reasons being that not all text was analysed at the same level of detail.

Another thing to mention about the 'Name' column, is that some of the values appear to be indented. This is so because they relate or stem from the first 'Name' value above them that is less indented.

Appendix I: CS1 website analysis

● According to the Israeli law, why does copyright subsists in the material that was placed on the Internet?

a. **The time dimension:**

*Nature of work	*Duration of copyright subsistence in the material	Mark with an 'X' where applicable
Literary, dramatic, musical or artistic work, except a photograph, whose author died on or after 1 January 1921, or a photograph created on or after 25 May 2008 (2007 s38)	Life + 70 years	
Photograph created before 25 May 2008 (1911 s21; 2007 ss78 (i))	Creation + 50 years	X

*Nature of work	*Duration of copyright subsistence in the material	Mark with an 'X' where applicable
Anonymous work (2007 s40)	Creation + 70 years, or publication + 70 years if published within 70 years of creation. If the creator is revealed during this period 2007 s38 or s39 apply.	X
Sound recording (2007 s41)	Creation + 50 years	X
Moral rights (2007 s45)	Same term as the copyright	X
State copyright work (2007 s42)	Creation + 50 years	
*These columns were taken from Padfield (2010, 279)		

Table I.1 CS1 time dimension

b. Ownership

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
The first owner of copyright (s33)	"Subject to the provisions of this chapter- (1) The author of a work is the first owner of copyright in the work; (2) The producer of a sound recording is the first owner of copyright in a sound recording." (s33)	
Works created by employees (s34)	"The employer is the first owner of copyright in a work made by an employee in the course of his service and during the period of his service, unless otherwise agreed." (s34)	
Commissioned Works	"(a) In work made pursuant to a commission, the first	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	owner of the copyright therein, wholly or partially, shall be the author, unless otherwise agreed as between the commissioning party and the author, expressly or impliedly. (b) In a work which is a portrait or a photograph of a family event, made pursuant to a commission, the first owner of the copyright therein shall be the commissioning party." (s35)	
State ownership of works	'The state shall be the first owner of a work made by, or commissioned for, the State or by an employee	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	of the State in consequence of his service and during the period of his service; In this section, "State employee" – includes soldiers, policemen and any other person who holds a position according to a statute in a State entity or institution." (s36)	
Assignment and licence of copyright	"(a) Copyright may be assigned by contract or by operation of law and the owner of a copyright may grant an exclusive license or non-exclusive license with respect to the copyright.	X

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	(b) Assignment of the copyright or the grant of a license, as stated in sub-section (a), may refer to the copyright in whole or in part, and it can be limited to a certain territory period of time, or to specific acts with respect to the work. (c) A contract for the assignment of copyright or the grant of an exclusive license therein shall require a written document. (d) In this section, "exclusive license" – means a license granting its holder the exclusive right to do any acts as set forth in Section 11	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	specified by the license, and restricts the owner of the copyright from doing those acts of from permitting others to perform those acts." (s37)	

Table I.2 CS1 ownership

● According to the Israeli Copyright Act, is placing such material on the Internet permitted?

a. Permitted use

Permitted use	Mark with an 'X' where applicable
Fair use as determined in s19 of the Copyright Act, 2007 (As amended . . .)	
Reproduction of a work deposited for public inspection as determined in s21 of the Copyright Act, 2007 (As amended . . .)	
Permitted uses and regulations of such uses, in libraries and archives in s30 and s31 of the Copyright Act, 2007 (As amended . . .)	X

Table I.3 CS1 permitted use

b. Type of archive

Type of archive	Mark with an 'X' where applicable
Archives that are allowed to copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007':	
The Israel State Archives (and its branches) as defined by the Israeli Archives Act, 1955	
A public archive as defined by the Israeli Archive Act, 1955	
Any other non-profit public archive, open to the public	
An archive of a local authority	X
An archive of a higher education institution as recognized/authorized/licensed by law	
An archive of a non-profit cultural institution including what is recognized by law as a museum, a theater, or an orchestra	
Archives that are not allowed to copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007':	
Any type of archive not defined in 'Taḳanot Zkhut Yotsrim (Sifriyot Ṿarkhiyonim), htshs"ṭ-2008'	

Table I.4 CS1 type of archive

● **Analysis relating to the interview material:**

Points	Findings
Reasons for the digitization	
Was there any commercial intent in placing the archive/s on the Net? Who is likely to gain financially from placing the archive/s on the Internet?	No, there does not seem to be any commercial intent in placing the material on the Net.
Which other benefits, seem to be embodied in the decision to place the archive/s on the Internet? And who are the intended beneficiaries?	The main intent behind placing the archives on the Internet, is to enable access and outreach. The beneficiaries are researchers and the general public at large. Other beneficiaries are the municipality and the archive that appear to be giving the public a service.
Does the collection combine resources from different repositories?	No.
Is there an attempt to crowdsource and harness 'user power'?	One can find some photographs with only partial information about them. This is found under the title: "Who knows?" Presumably if someone would have information they could contact the archive, though they do not write so explicitly.

Points	Findings
Ownership	
Does it say anywhere on the Website, that copyright subsists in the material that was digitized?	Not explicitly, though they do write that copying material in which the original material is still in the possession of the family it belongs to, will need to be approved of by the family.
Does the website include information on the copyright holders?	---
Does the digitized archive contain any Orphan Works?	Copyright does not subsist in the material placed on the Net. Among the digitized archival material, not placed on the Web, one can find many orphan works. Seeing that the researcher did not check this personally, theoretically it is possible that something/s slipped through the net.
Policy, procedure, strategy – the big picture	
Has the digitizing organization placed an official policy relating to their digitization activity, on the Internet? If so, what is stated in this policy? Does it seem that the digitization was done in accordance with this policy? Does this policy comply with the Israeli Copyright law?	No.

Points	Findings
How can one request the removal of material from the web? Who do you approach/write to if you have such a request? Is the procedure explained clearly on the Website?	The procedure is not explained on the site. There is clear information regarding who you can contact and how to contact them, with any request.
Precautions	
Were any measures taken to ensure that the material will only be used in according to what is legally permitted in Israeli copyright law?	On the site one can see, when one will need to ask for permission to use the material. If material was digitized, one can only see the digitized copy and not the original. Theoretically this can allow the archive to "play" with the image resolution.
Is there any use of locks and keys when trying to access the material via the Web?	No. There doesn't seem to be a need at the moment, seeing that 'controversial' material has not yet been placed on the Net.
Additional information	
Additional pertinent points, if any, that are not mentioned above	---

Table I.5 CS1 analysis relating to interview material

Appendix J: CS2 website analysis

● According to the Israeli law, why does copyright subsists in the material that was placed on the Internet?

a. **The time dimension:**

*Nature of work	*Duration of copyright subsistence in the material	Mark with an 'X' where applicable
Literary, dramatic, musical or artistic work, except a photograph, whose author died on or after 1 January 1921, or a photograph created on or after 25 May 2008 (2007 s38)	Life + 70 years	X
Photograph created before 25 May 2008 (1911 s21; 2007 ss78 (i))	Creation + 50 years	X

*Nature of work	*Duration of copyright subsistence in the material	Mark with an 'X' where applicable
Anonymous work (2007 s40)	Creation + 70 years, or publication + 70 years if published within 70 years of creation. If the creator is revealed during this period 2007 s38 or s39 apply.	X
Sound recording (2007 s41)	Creation + 50 years	X
Moral rights (2007 s45)	Same term as the copyright	X
State copyright work (2007 s42)	Creation + 50 years	
*These columns were taken from Padfield (2010, 279)		

Table J.1 CS2 time dimension

b. Ownership

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
The first owner of copyright (s33)	"Subject to the provisions of this chapter- (1) The author of a work is the first owner of copyright in the work; (2) The producer of a sound recording is the first owner of copyright in a sound recording." (s33)	
Works created by employees (s34)	"The employer is the first owner of copyright in a work made by an employee in the course of his service and during the period of his service, unless otherwise agreed." (s34)	
Commissioned Works	"(a) In work made pursuant to a	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	commission, the first owner of the copyright therein, wholly or partially, shall be the author, unless otherwise agreed as between the commissioning party and the author, expressly or impliedly. (b) In a work which is a portrait or a photograph of a family event, made pursuant to a commission, the first owner of the copyright therein shall be the commissioning party." (s35)	
State ownership of works	'The state shall be the first owner of a work made by, or commissioned for, the	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	State or by an employee of the State in consequence of his service and during the period of his service; In this section, "State employee" – includes soldiers, policemen and any other person who holds a position according to a statute in a State entity or institution." (s36)	
Assignment and licence of copyright	"(a) Copyright may be assigned by contract or by operation of law and the owner of a copyright may grant an exclusive license or non-exclusive	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	license with respect to the copyright. (b) Assignment of the copyright or the grant of a license, as stated in sub-section (a), may refer to the copyright in whole or in part, and it can be limited to a certain territory period of time, or to specific acts with respect to the work. (c) A contract for the assignment of copyright or the grant of an exclusive license therein shall require a written document. (d) In this section, "exclusive license" – means a license granting its holder the exclusive	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	right to do any acts as set forth in Section 11 specified by the license, and restricts the owner of the copyright from doing those acts of from permitting others to perform those acts." (s37)	

Table J.2 CS2 ownership

The ownership of the material is an issue that is handled by the originating archive and not the National Library. Seeing that different archives have, are and will be digitized by the National Library and each of them has its particular ownership circumstances – the researcher did not complete this table.

● According to the Israeli Copyright Act, is placing such material on the Internet permitted?

a. **Permitted use**

Permitted use	Mark with an 'X' where applicable
Fair use as determined in s19 of the Copyright Act, 2007 (As amended . . .)	X
Reproduction of a work deposited for public inspection as determined in s21 of the Copyright Act, 2007 (As amended . . .)	X
Permitted uses and regulations of such uses, in libraries and archives in s30 and s31 of the Copyright Act, 2007 (As amended . . .)	X

Table J.3 CS2 permitted use

b. Type of archive

Type of archive	Mark with an 'X' where applicable
Archives that are allowed to copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007':	
The Israel State Archives (and its branches) as defined by the Israeli Archives Act, 1955	
A public archive as defined by the Israeli Archive Act, 1955	
Any other non-profit public archive, open to the public	
An archive of a local authority	
An archive of a higher education institution as recognized/authorized/licensed by law	
An archive of a non-profit cultural institution including what is recognized by law as a museum, a theater, or an orchestra	
Archives that are not allowed to copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007':	
Any type of archive not defined in 'Taḳanot Zkhut Yotsrim (Sifriyot Ṿarkhiyonim), htshs"ṭ-2008'	

Table J.4 CS2 type of archive

The table above, was not completed seeing that the criteria, as mentioned, should be checked for each digitized archive separately. The common theme among all digitized archives, is that they are Israeli.

● **Analysis relating to the interview material:**

Points	Findings
Reasons for the digitization	
Was there any commercial intent in placing the archive/s on the Net? Who is likely to gain financially from placing the archive/s on the Internet?	No. The ones that are supposed to gain from the digitization are the participating archives that are receiving a service of 'free digitization' from the institution (CS2).
Which other benefits, seem to be embodied in the decision to place the archive/s on the Internet? And who are the intended beneficiaries?	Cultural, Political and ideological. The beneficiaries are the wider public, politicians, the participating archives and ideological movements.
Does the collection combine resources from different repositories?	Yes.
Is there an attempt to crowdsource and harness 'user power'?	Not explicitly, though it is easy to contact the institution (CS2) to convey any necessary information.
Ownership	
Does it say anywhere on the Website, that copyright subsists in the material that was digitized?	There is a general statement concerning copyright on the site.

Points	Findings
Does the website include information on the copyright holders?	No it does not. It does say that users need to contact the institution (CS2) at a specific e-mail address to receive the necessary information, if they want to receive copies from or use information that appears in electronic format on the website.
Does the digitized archive contain any Orphan Works?	Yes.
Policy, procedure, strategy – the big picture	
Has the digitizing organization placed an official policy relating to their digitization activity, on the Internet? If so, what is stated in this policy? Does it seem that the digitization was done in accordance with this policy? Does this policy comply with the Israeli Copyright law?	The researcher has not found such a policy on the website. It seems that a legal research team from one of Israel's universities is accompanying this project and dealing with policy issues related to the digitization. The legal research team will be publishing information relating to this subject in the future.
How can one request the removal of material from the web? Who do you approach/write to if you have such a request? Is the procedure explained clearly on the Website?	In the general statement regarding copyright on the website, one finds an e-mail address to contact, when concerned about rights in the material that appear on the website.

Points	Findings
Precautions	
Were any measures taken to ensure that the material will only be used in according to what is legally permitted in Israeli copyright law?	As mentioned above there is a general statement concerning copyright, on the website. The researcher cannot determine from what is found on the site, which steps the institution (CS2) would take to enforce the law. Technological measures such as low or medium resolution for photographs might Have been employed.
Is there any use of locks and keys when trying to access the material via the Web?	No.
Additional information	
Additional pertinent points, if any, that are not mentioned above	---

Table J.5 CS2 analysis relating to interview material

Appendix K: CS3 website analysis

● According to the Israeli law, why does copyright subsists in the material that was placed on the Internet?

a. **The time dimension:**

*Nature of work	*Duration of copyright subsistence in the material	Mark with an 'X' where applicable
Literary, dramatic, musical or artistic work, except a photograph, whose author died on or after 1 January 1921, or a photograph created on or after 25 May 2008 (2007 s38)	Life + 70 years	X
Photograph created before 25 May 2008 (1911 s21; 2007 ss78 (i))	Creation + 50 years	X

*Nature of work	*Duration of copyright subsistence in the material	Mark with an 'X' where applicable
Anonymous work (2007 s40)	Creation + 70 years, or publication + 70 years if published within 70 years of creation. If the creator is revealed during this period 2007 s38 or s39 apply.	X
Sound recording (2007 s41)	Creation + 50 years	
Moral rights (2007 s45)	Same term as the copyright	X
State copyright work (2007 s42)	Creation + 50 years	X
*These columns were taken from Padfield (2010, 279)		

Table K.1 CS3 time dimension

b. Ownership

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
The first owner of copyright (s33)	"Subject to the provisions of this chapter- (1) The author of a work is the first owner of copyright in the work; (2) The producer of a sound recording is the first owner of copyright in a sound recording." (s33)	X
Works created by employees (s34)	"The employer is the first owner of copyright in a work made by an employee in the course of his service and during the period of his service, unless otherwise agreed." (s34)	?

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
Commissioned Works	"(a) In work made pursuant to a commission, the first owner of the copyright therein, wholly or partially, shall be the author, unless otherwise agreed as between the commissioning party and the author, expressly or impliedly. (b) In a work which is a portrait or a photograph of a family event, made pursuant to a commission, the first owner of the copyright therein shall be the commissioning party." (s35)	?
State ownership of works	'The state shall be the first owner of a work	X

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	made by, or commissioned for, the State or by an employee of the State in consequence of his service and during the period of his service; In this section, "State employee" – includes soldiers, policemen and any other person who holds a position according to a statute in a State entity or institution." (s36)	
Assignment and licence of copyright	"(a) Copyright may be assigned by contract or by operation of law and the owner of a copyright may grant an exclusive	?

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	license or non-exclusive license with respect to the copyright. (b) Assignment of the copyright or the grant of a license, as stated in sub-section (a), may refer to the copyright in whole or in part, and it can be limited to a certain territory period of time, or to specific acts with respect to the work. (c) A contract for the assignment of copyright or the grant of an exclusive license therein shall require a written document. (d) In this section, "exclusive license" – means a license granting	

Nature of copyright ownership	Owner of copyright in Israel	Mark with an 'X' where applicable
	its holder the exclusive right to do any acts as set forth in Section 11 specified by the license, and restricts the owner of the copyright from doing those acts of from permitting others to perform those acts." (s37)	

Table K.2 CS3 ownership

● According to the Israeli Copyright Act, is placing such material on the Internet permitted?

c. Permitted use

Permitted use	Mark with an 'X' where applicable
Fair use as determined in s19 of the Copyright Act, 2007 (As amended . . .)	X
Reproduction of a work deposited for public inspection as determined in s21 of the Copyright Act, 2007 (As amended . . .)	?
Permitted uses and regulations of such uses, in libraries and archives in s30 and s31 of the Copyright Act, 2007 (As amended . . .)	?

Table K.3 CS3 permitted use

d. Type of archive

Type of archive	Mark with an 'X' where applicable
Archives that are allowed to copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007':	
The Israel State Archives (and its branches) as defined by the Israeli Archives Act, 1955	
A public archive as defined by the Israeli Archive Act, 1955	
Any other non-profit public archive, open to the public	
An archive of a local authority	
An archive of a higher education institution as recognized/authorized/licensed by law	
An archive of a non-profit cultural institution including what is recognized by law as a museum, a theater, or an orchestra	X
Archives that are not allowed to copy material according to ss30 (a) and s67 in the 'Copyright Act, 2007':	
Any type of archive not defined in 'Taḳanot Zkhut Yotsrim (Sifriyot Ṿarkhiyonim), htshs"ṭ-2008'	

Table K.4 CS3 type of archive

● Analysis relating to the interview material:

Points	Findings
Reasons for the digitization	
Was there any commercial intent in placing the archive/s on the Net? Who is likely to gain financially from placing the archive/s on the Internet?	No.
Which other benefits, seem to be embodied in the decision to place the archive/s on the Internet? And who are the intended beneficiaries?	Educational and cultural. The beneficiaries would be the wider public and researchers.
Does the collection combine resources from different repositories?	It combines resources from different collections.
Is there an attempt to crowdsource and harness 'user power'?	There does not seem to be such an attempt. In the photograph archive part of the site.
Ownership	
Does it say anywhere on the Website, that copyright subsists in the material that was digitized?	Yes. There is a statement saying that all the photographs on the website are protected by copyright. One is not permitted to use any photograph/s from the site without permission from the archive.
Does the website include information on the copyright holders?	No. It does say that the archive (not the digitized one) contains many photographs from archives and private collections. The

Points	Findings
	portion that is digitized is from several collections.
Does the digitized archive contain any Orphan Works?	Probably, though one would not know which of the works is an orphan work.
Policy, procedure, strategy – the big picture	
Has the digitizing organization placed an official policy relating to their digitization activity, on the Internet? If so, what is stated in this policy? Does it seem that the digitization was done in accordance with this policy? Does this policy comply with the Israeli Copyright law?	No.
How can one request the removal of material from the web? Who do you approach/write to if you have such a request? Is the procedure explained clearly on the Website?	There is no information on the subject.
Precautions	
Were any measures taken to ensure that the material will only be used in according to what is legally permitted in Israeli copyright law?	As mentioned above, there is a notice saying that one needs to receive permission from the archive itself for using the material. It does not say how this is enforced.

Points	Findings
Is there any use of locks and keys when trying to access the material via the Web?	No.
Additional information	
Additional pertinent points, if any, that are not mentioned above	

Table K.5 CS3 analysis relating to interview material

Appendix L: 15 nodes with most coverage for each source

CS1

Node	Percentage coverage
Nodes\\material\photographs	35.40%
Nodes\\cost (money, time, etc.)	28.86%
Nodes\\users and use\user's complaints	19.37%
Nodes\\users and use\the wider public	19.37%
Nodes\\users and use\non-commercial use\encouraging non-commercial use	19.37%
Nodes\\users and use\non-commercial use	19.37%
Nodes\\outreach and access\importance of outreach and access	19.37%
Nodes\\material\heritage material	19.37%
Nodes\\material\audiovisual material	19.37%
Nodes\\cost (money, time, etc.)\budget\funds\public funding	19.37%
Nodes\\Copyright law\law-abiding	19.37%
Nodes\\Copyright law\draconian copyright law	19.37%
Nodes\\Copyright law\copyright law being limiting	19.37%
Nodes\\archivists\archivists' image/damage to archivists' image	19.37%
Nodes\\archivists	19.37%

Table L.1 CS1 – nodes with most coverage

CS2

Node	Percentage coverage
Nodes\\digitization\reasons for digitization	14.94%
Nodes\\digitization\digitization project\collaboration	12.75%
Nodes\\problem\having a problem	11.91%
Nodes\\responsibility\responsibility belonging to originating archive	9.62%
Nodes\\cost (money, time, etc.)\budget\funds	7.56%
Nodes\\caution	7.17%
Nodes\\work\workload\considerable workload	6.91%
Nodes\\Copyright law\copyright law being limiting	6.86%
Nodes\\material\rights in the material or owner's rights\right to privacy	6.20%
Nodes\\Copyright law	6.20%
Nodes\\outreach and access	5.73%
Nodes\\policy	5.63%
Nodes\\legal team	5.14%
Nodes\\Copyright law\deciding not to deal with copyright	5.14%
Nodes\\agreements or contracts	5.14%

Table L.2 CS2 – nodes with most coverage

CS3

Node	Percentage coverage
Nodes\\material\photographs	19.72%
Nodes\\ownership	19.67%
Nodes\\Copyright law\Israeli copyright law	19.25%
Nodes\\Copyright law\Israeli copyright law\referral to Israeli copyright law [referral to specific contents in the Israeli copyright law]	18.72%
Nodes\\policy	18.44%
Nodes\\material\photographs\photograph collection	18.26%
Nodes\\problem\having a problem	17.36%
Nodes\\users and use	17.26%
Nodes\\permission	13.52%
Nodes\\caution	13.29%
Nodes\\material\rights in the material or owner's rights\property rights	12.78%
Nodes\\permission\no permission	11.57%
Nodes\\technical details of how the system is structured	10.73%
Nodes\\Copyright law	10.07%
Nodes\\material\rights in the material or owner's rights\use rights	10.02%

Table L.3 CS3 – nodes with most coverage