**Video At Risk: Strategies for Preserving Commercial Video Collections in Research Libraries**

A partnership between New York University, UC-Berkeley, & Loyola University-New Orleans

Funded by the Andrew W. Mellon Foundation

http://www.nyu.edu/fisch/preservation/research/video-risk/

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**Video At Risk**

- **Background & Overview** (Howard Besser)
- **Intellectual Property & §108(c) Guidelines** (Melissa Brown)
- **Scarcity & Replacement Research Initial Findings** (Walter Forsberg)
- **Reformatting: technical issues, RFPs to vendors** (Walter Forsberg)
- **Future Issues** (Howard Besser)

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**Video At Risk Project: Background & Overview**

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**NYU Mellon Video At Risk Grant: Video replacement issues**

- Expands on our “Preserving Digital Public Television” grant findings that public television distribution rights often expire after 6 or 12 years, either reverting to another distributor, or rendering the work legally undistributable (the “Eyes on the Prize” problem)
- Expands on our previous Mellon grant findings that many distributed VHS tapes had become both rare and difficult to replace (Circulating collections become preservation collections)
- It’s almost always more efficient to replace than to treat or reformat
- Examine routine maintenance, preservation, and © issues in circulating video collections

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**NYU Mellon Video At Risk Grant: How to help librarians make decisions**

- When to look for a replacement video, and how to prioritize those “at risk”
- Where to go to find a replacement video
- How to legally rationalize reformatting/digitizing “at risk” videos
- What file formats, compression schemes, file size, metadata, etc. to use for reformatted video files
- How to deal with vendor outsourcing for reformatting and technical metadata

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**NYU Mellon Video At Risk Grant: Examine routine maintenance, preservation, and © issues in circulating videocollections**

- Research “scarcity” of videos originally purchased by libraries in commercial market (examine OCLC records)
- Research “replaceability” of videos (test several procedures for determining out-of-printness)
- Develop checklist procedures for determining whether replacement copy can be legally obtained (Orphan Works type procedure), and explore legal justification for digitizing without prior permission (section 108)
- Develop a model procedure to follow and identify trade-offs in preservation reformatting of library videos into digital (quality, file format, CODECS, QA/QC, line 21, ...)

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Partners and Origin of Partnerships

- Don Waters @ Mellon
- Laurie Phillips @ Loyola-NO
- Gary Handman @ Berkeley
- OCLC—from top of Research down to Eric Childress
- Academic Librarians w/circulating video collections (VRT members)

Leveraging w/IMLS grant

- We already had an IMLS grant to examine job impediments for managers of academic library media collections (primarily aimed at improving training)
- Leveraged focus groups convened for that grant in 2010 to engage in discussions of VAR
- One interesting discovery—universities were rapidly removing video players from classrooms, causing serious problems for viewing anything in videotape collections

Confronting a campus wide VHS

Deadline [Videolib], Oct 10, 2012

- "...I certainly understand the IT department’s point of view, especially considering our cash-strapped state of late. They are looking for ways to not pay for or maintain “unnecessary” equipment. VHS is a likely target.”

- "However, you can imagine the effect this announcement has had on our faculty when they were suddenly told that that “if you have VHS tapes that you show in your classes, you will need to find replacements by May 6, 2013.” It also mentioned the coming “analog sunset,” which has evoked memories of the dreaded Y2K of earlier times (remember that apocalypse)? VHS death went from a lingering, gradual one (to which we seem to be slowly adapting) to a quick bullet to the head. Actually, it’s more like a bomb tossed into a crowd at the moment."

Intellectual Property & §108(c) Guidelines

Section 108 Guideline 1:
When is a copy of a work “Damaged, Deteriorating, Lost, or Stolen”? 

- With no standard metrics for “damaged” or “deteriorating”, signal problems such as: visual dropout, audio dropout, other distortion, should be seen as acceptable justification. Damage to physical carrier is a less safe rationale.
- While safest to wait until “damage” or “deterioration” is perceptible, libraries may decide to make §108(c) copies when such harm is imminent.
- Preemptive creation of copies to avert “damage” or “deterioration” to original may be prudent under rights guaranteed by §107.
- In the case of “lost” or “stolen” copies, borrowed copies may be used to facilitate the creation of §108(c) copies.

Section 108 Guideline 2:
When is a format “obsolete”? 

- A work or format is “obsolete” when it is no longer manufactured, or new playback equipment for that format can no longer be obtained in the commercial market at a fair price.
- The following non-exhaustive list of formats can be considered obsolete:
  - 2” Quadruplex videotape, Hi-8 videotape, 1” Type A videotape, M format, 1” Type B videotape, M II format, 1” Type C videotape, S-VHS, all ½” open-reel videotape formats, LaserDisc, ½” Umatic videotape, wire recordings, Betamax videotape, Minidisc, 8mm videotape (aka “Video8”).
- The following can be considered currently available:
  - Beta SP, DVD, LP, MiniDV, Blu-Ray.
- The following can be considered currently available, however soon-to-be obsolete:
  - VHS, compact audiotape
Section 108 Guideline 3:

What constitutes a “replacement”?

- A “replacement” is a copy that can serve the same educational and scholarly purposes as the original: materially the same content, and equally easy for patrons to access and use.
- Burned-on-demand copies are as valid as “replacements” as those mass-produced.
- Region-restricted formats may make §108(c)-made copies a safer strategy, in lieu of running afoul of DMCA anti-circumvention prohibition.
- Circulating bootlegged copies is less safe than creating §108(c)-made copies.
- Subscriptions must be perpetually guaranteed, otherwise they do not serve the same functionality of the original.
- Special Editions, Restorations, etc. may be deemed not adequate replacements due to changes in content and form.

Section 108 Guideline 4:

Can copies made under §108(c) be digital?

- Copies of a work made under §108(c) may be either analog or digital.

Section 108 Guideline 5:

Can copies made under §108(c) be circulated?

- If the work being replaced by the creation of a §108(c) copy is originally a circulating copy, then the replacement for that copy should be a circulating copy as well.
- Analog copies may be circulated to the same extent as original materials.
- Digital copies may be circulated insofar as circulation does not involve making the digital copy available to the public outside the premises of the library.

Section 108 Guideline 6:

In locating a “replacement” copy, what qualifies as “reasonable effort”?

- Consult commonly-know trade sources in the United States: IMDB, Amazon.com, web search engine.
- “Reasonable effort” means different things in different circumstances.
- Documenting all replacement research will ensure more proof of due diligence, in case of any litigation, than not.

Section 108 Guideline 7:

In locating a “replacement” copy, what qualifies as “fair price”?

- An unused replacement copy should presumably be at, or near, the retail price of the work when new.
- Any additional collector’s-item value the work may have accrued by reason of its scarcity should not necessarily be deemed “fair” just because there is a market participant willing to pay it.
- Remember that “replacement” copies available in the marketplace must be “new, unused.”

Scarcity & Replacement Research
Scarcity – Methodology

• Parse 2,122 ‘scarce’ videos (VHS/Umatic/DVD/LaserDisc) into sub-groups
• By cataloged MARC format:
  300 Sa videocassette; $c ¾ in.
  300 Sa videocassette; $c ¾ in.
  300 Sa videodisc; $c 4 ¼ in.
  300 Sa videodisc; $c 12 in.
• By cataloged MARC publisher and their geography:
  Tokyo: Manufactured and distributed by VAP Inc., c1992
• Sub-groupings facilitate replacement research: amass title lists for possible Section 108 (c) replacement inquiries to original distributors
• Sub-groupings reveal trends (eg. PBS subset): only 17% of NYU’s PBS-distributed titles are replaceable through PBS; 30% of PBS titles were replaceable through Amazon.com; when available, a replacement copy of a PBS work averages $42.84.

Examples of U.S.-Based ‘Orphans’

“Strawberry Fields: Dolores Huerta & the United Farm Workers” (People’s Video Network, 1997)
  • NBC-based collective organization’s video interview with labor rights workers
“Live from Europe: the Blind Boys of Mississippi” (Gospel Jubilee Video, 1999)
  • Long-running Chicago television program (1963-86) release
“ISDN, Integrated Services Digital Networks” (1985, Bell Communication)
  • AITEL subsidiary technology educational video
“Coital Alignment Technique: the Key to Simultaneous Orgasm” (2003, Marriage Science)
  • Sex education researcher’s self-release

Examples of Foreign “Orphans”

“Ice Cream in Glyn” (Pyramid for Cinema and Video, 1992)
  • Feature-length music video of Egyptian singer Amr Diab
“Amas de casa [Housewives]!” (Colectivo Cine Mujer, 1997)
  • Documentary on Latin American and European women’s filmmaking collective
  • Documentary on black French intellectual, writer, and founder of the 1930s Negritude movement
“Fabulous Rio & Carnival” (Rio Productions, 1987)
  • Independent release from southern Ontario company

Scarcity - OCLC-Generated Data Pull, April 2011

• Indices revealed 1,763,004 total records for videos in WorldCat
• 69,682 of these records cataloged as Location=ZYU, CUY, or LLM
• PRIMO FRBR and de-duplication algorithms applied to these records
• Additional filtering for Holdings=1

• UC-Berkeley: 4,489 ‘scarce’ titles
• NYU: 2,122 ‘scarce’ titles
• Loyola, New Orleans: 31 ‘scarce’ titles
U.S.-Based Major Imprints/Distributors

- Electronic Arts Intermix (76 titles)
- Museum of Modern Art (35 titles)
- Video Data Bank (35 titles)
- Labor Institute of Public Affairs (30 titles)
- Shokus (29 titles)
- First Run/Scarus (21 titles)

Other Provenances

- Broadcast News outlets (BBC, NBC, ABC)
- PBS-distributed works
- Rare and unavailable, yet rights-wrought miasmas in religious new music marketplace

Titles with No Cataloging Information

- Empty MARC 260 Field
- 163 of 1,397 (12% of NYU VHS holdings)

Scarcity Methodology – Cataloging Issues

Research generated a list of multiple records for cataloging conforming

Scarcity Methodology – Editing Problems

So-called “scarce” titles according to OCLC indexes, may appear in subsequent future ‘media package’ editions & compilations

- Hans Dieter Hartl's short documentary appears as supplemental material on Criterion Collection 2007 DVD release
“Reasonable Effort” Replacement Methodology

- Step 1
  Searching for new, unused replacement copies at a “fair price” on:
  * Amazon-ia (Amazon.co.uk; Amazon.ca; etc.)
  * Web searches

- Step 2
  Direct email & registered mail inquiry to original distributor:
  * available online contact information;
  * forwarding info from catalog purchaser/company;
  * via Secretary of State business registry addresses

- Step 3
  List serv database & community inquiries
  * VideoLib

Development of Request for Proposals Template

RFP Components

- Essential steps & specs needed to outsource video reformatting process
  * Standardize language, outline technical characteristics of analogue video w/r/t A-D reformatting

- Recommend file formats & suggest A-D workflows
  * Preservation master best practices
  * Highlight partner delivery platforms & mechanisms

- Appendices
  * Quality control protocol
  * Video glossary
  * User manual & annotated resources guide

Future Issues
Need for Metadata extraction tool

• When we get all these digital video files back from the vendor, need a tool for extracting technical metadata, adding it to our own metadata tracking systems, & managing them
• Would like to build an open-source well-documented tool with a friendly user interface to
  – Extract technical MediaInfo library metadata from AV files in batch mode
  – Generate & verify checksum fixity for AV files
  – Export results in various formats & SIP compliances needed by repositories (ie. CSV and XML)

Further Issues to Explore

• Indicators to show whether the content of a DVD replacement is close to that of the original VHS copy
• Concepts for determining which of these works are worth preserving (scarcity? circulation? others?)
• Analyzing video publishing/distribution market
  – Find predictors for longevity, going out-of-print
  – Tracing which backlists are bought up by which new distributors

Further Issues to Explore

• Expand and hone the due diligence search for Orphan works; develop metrics of success for various methods/procedures
• Investigating other metrics for tape degradation.
  – We are currently testing both the Fourier-Transform InfraRed (FTIR) and DART-MS spectrometry approaches at measurement of tape binder and degradation. Testing is being performed in collaboration with Eric Breitung, Preservation Scientist at the Library of Congress and IMLS.

NYU’s Video At Risk

• http://besser.tsoa.nyu.edu/howard/falks/
• http://www.nyu.edu/tsch/preservation/research/video-risk/
• Video At Risk Project: Background & Overview
• Intellectual Property & §108(c) Guidelines
• Scarcity & Replacement Research Initial Findings
• Reformatting: technical issues, RFPs to vendors
• Future Issues