



## EUROPEAN COMMISSION

Information Society and Media Directorate-General

Audiovisual, Media, Internet

**Audiovisual and Media policies**

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### REPORT

#### CINEMA EXPERT GROUP / SUBGROUP FILM ARCHIVES

09/06/2008

The Cinema Expert Group was established pursuant to the Cinema Communication of 2001, with the aim of facilitating communication between the Commission and the sector as well as exchange of good practices in all areas of interest of the sector. A Subgroup Film Archives has been established, for dealing in particular with film heritage issues.

#### PARTICIPANTS

Around 50 participants attended the meeting, from the following categories<sup>1</sup>:

- National Ministries in charge of film heritage issues
- Film Archives, film museum and other institutions related to film heritage
- Permanent Representations
- Film institutes
- Representatives of European professional associations

The meeting was chaired by Jean-Eric de Cockborne (JEC).

Other participants from the Commission included: Mari Sol Pérez Guevara (MPG), Oliver Füg, Géraldine Bal (DG INFSO A1), Hughes Becquart (DG INFSO A2), Luis Ferrao (DG INFSO E4), Tilman Lueder (DG MARKT D1), Clément Carasco (EACEA).

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<sup>1</sup> Names of participants will be published on [http://ec.europa.eu/secretariat\\_general/regexp/](http://ec.europa.eu/secretariat_general/regexp/)

## **Introduction to the meeting**

**JEC** and **MPG** welcomed the participants. JEC set out the objectives of the meeting:

1. To present the main findings of the report on the Implementation of the film heritage Recommendation, to be approved as a Commission Staff Working document in the following weeks;
2. To inform participants of current relevant EU initiatives that are of interest for film heritage institutions;
3. To present and facilitate the exchange of some of the best practices identified in the Implementation report.

He then handed the floor to MPG for a presentation of the results gathered on the implementation of the film heritage recommendation.

## **Report on the implementation of the Film Heritage Recommendation**

**Presentation:** Mari Sol Pérez Guevara (DG INFSO A1) (see slides)

Point 23 of the Recommendation of European Parliament and Council Recommendation of 16 November 2005 on film heritage and the competitiveness of related industrial activities (Film Heritage Recommendation) recommended to Member States to inform the Commission every two years of action taken in response to the Recommendation. In point 6, the Commission committed itself to monitor and assess the extent to which the measures set out in the Recommendation were working effectively, and to consider the need for further action.

The Report on the implementation of the Film Heritage Recommendation has been drafted on the basis of Member States' reports received as reply to a questionnaire circulated by the Commission on 4 October 2007.

As a result of the analysis of the current situation, the Commission has identified 8 issues that should be considered by Member States as a priority, in case that they have not yet been tackled:

- (1) establishing a long-term strategy for their national film heritage and annual plans for specific issues (digitisation, restoration, education, etc);
- (2) monitoring compliance with the mandatory forms of deposit (both with the obligation of deposit and the technical quality of the material);
- (3) promoting voluntary deposit as a complement to legal deposit. The use of the framework contract between ACE and FIAPF is recommended as soon as it becomes available. In the absence of signature of this contract, Member States should encourage by all means agreements between film heritage institutions and right-holder associations covering the possible uses of the deposited material by the archive.
- (4) continuing efforts to achieve interoperability of film databases, and to make those databases accessible via the Internet;

- (5) establishing partnerships with the commercial sector and with other film archives for the restoration of cinematographic works, with the objective of sharing know-how and increase resources available;
- (6) seeking agreements with right-holders with a view to promote cultural access to film heritage as broadly as possible.
- (7) creating specialised courses at university level for all areas related to film archives;
- (8) giving higher priority and visibility to educational programmes and activities.

Member States should continue the application of the Recommendation, and report again to the Commission by November 2009.

**Note:**

The Report was approved by the Commission Services on 4 August 2008. It is available on  
[http://ec.europa.eu/avpolicy/docs/reg/cinema/report/swp\\_en.pdf](http://ec.europa.eu/avpolicy/docs/reg/cinema/report/swp_en.pdf)

Reports on film heritage from the 13 Member States that have given their agreement for publication are also available on-line:

[http://ec.europa.eu/avpolicy/reg/cinema/report/index\\_en.htm](http://ec.europa.eu/avpolicy/reg/cinema/report/index_en.htm)

**The Commission invites the remaining Member States to give their agreement for publication of their reports.**

### **European Standardization to facilitate interoperability of film databases**

**Introduction:**

The standardization mandate from the Commission on the interoperability of databases was given to CEN (European Committee for standardization) in March 2005. CEN has created a specific standardization group for drafting the European standards requested by the mandate. The Commission is continuing its financial support to the secretariat of the standardization group.

There are two standards in preparation:

- prEN 15744 (Film Identification – **Part 1:** Minimum set of metadata for cinematographic works). Planned publication in April 2009.
- pr EN 15745 (Film Identification – **Part 2:** Enhancing interoperability of metadata – Elements sets and structures). Planned publication in April 2010.

**Presentation:** Ronny Loewy (RL) (Deutsches Filminstitut) (see slides).

**RL** emphasized possible synergies between CEN and FIAF (International Federation of Film Archives) work, but pointed to the resource limitations that FIAF is facing, which may considerably slow down its work.

**Conclusion:**

**MPG** invited those interested to participate in the standardization working group, via their national standardization bodies. CEN expects to finalize a draft of the second, more specific part of the standard this autumn. Projected completion spring 2009.

### **Contract for voluntary deposit of cinematographic work**

**Introduction:**

The Commission is acting as a facilitator for the negotiations between ACE (Association des Cinematheques Europeennes) and FIAPF (Fédération Internationale des Associations de Producteurs de Films) on a European model contract for voluntary deposit of cinematographic works.

This model contract is aimed at facilitating the negotiation and signature of bilateral contracts between film archives and right-holders, by covering all relevant issues and proposing standard clauses to deal with them.

The negotiations have been going on for years, and at the beginning of 2005 the Commission decided to give them a new impulse.

**Presentation:** Gabrielle Claes (ACE) and Benoît Ginisty (FIAPF).

Topics emphasized, for which still the discussion is open:

- possible uses of restored material
- cost of public screenings
- different treatment of single / multiple copy cases
- possible problems of permanent withdrawal by right holders

**Note:**

A meeting between the two organisations under the auspices of the Commission took place in July 2008.

### **MEDIA Pilot project MIDAS**

**Introduction :**

Initiated by ACE in 2005 and supported by the MEDIA Programme since then, the MIDAS project aims at addressing effectively one of the bottlenecks blocking the full

development of an efficient European distribution – for commercial and cultural purposes – of EU archival materials having historical and cultural value. This bottleneck, on which there is a vast consensus of a wide spectrum of stakeholders, consists in the complex, time consuming and costly process of locating archival materials across European collections, and identifying the copyright owners.

The project addresses this issue by establishing technical solutions apt to making possible the search and retrieval of archival materials held in a number of collections across Europe by centralising the process of search and retrieval, and by overcoming the language barrier (the catalogue can now be accessed in 7 languages). Search results will provide available information about existence of the materials, their location, contact information of the collections, and copyright. MIDAS does not – as opposed to the European Film Gateway (EFG) project – provide access to the catalogued materials themselves.

The consortium now consists of 18 partner archives from 12 different EU countries.

**Presentation:** Georg Eckes (GE) (Deutsches Filminstitut) (see slides).

### **Conclusion:**

**GE** urged representatives of film archives not yet participating in this initiative to launch the process immediately as the project will come to an end in 2009. The project focuses on non-fiction, as the inclusion of fiction material would require a new (and larger) resource endowment.

More information available at

<http://www.midas-film.org/index.htm>

<http://www.filmarchives-online.eu>

## **eContentPlus project "The European Film Gateway" (EFG)**

### **Introduction:**

The European Film Gateway is a project supported by the eContentplus programme of the European Commission. The project seeks to integrate various European film archives and cinemathèques into the development of an online platform designed to present cultural heritage in a digital format and to provide access to a combined archive of catalogue data concerned with film. The EFG serves as an aggregator service in relation to Europeana.

**Presentation:** Georg Eckes (Deutsches Filminstitut) (see slides).

### **Questions and answers.**

**Federation of Scriptwriters in Europe (FSE):** How are rights for content to be included in the EFG being cleared?

**Answer:** On this point, EFG cooperates closely with the Nederlands Filmmuseum who is experiencing this problem in the context of its 'Images for the future' project. In the medium term, EFG seeks to develop best practice guidelines on this topic.

### **Conclusion:**

A kick-off meeting for the EFG will be held on 22 and 23 September in Frankfurt. Cooperation on rights clearance with the Nederlands Filmmuseum will continue, drawing on input by participating institutions.

More information available at

<http://www.europeanfilmgateway.eu> (site under construction)

## **Film Archives and copyright (exceptions to the copyright, concept of fair use, planned extensions of the term of protection)**

### **Introduction:**

The Commission is drafting a Green Paper on Copyright in the Knowledge Economy. The Paper is expected to be published in September 2008, and stakeholders will have the opportunity to send their comments until the end of the year.

The Green Paper will likely seek comments on several issues highly relevant for film heritage institutions:

- Exceptions foreseen in the Copyright Directive (2001/029/EC) for libraries:
  - Exception to the reproduction right for specific acts of reproduction for non-commercial purposes (Article 5.2 (c) of the Directive);
  - Exception to the communication to the public and the making available right for the purpose of research or private study by means of dedicated terminals located on the premises of such establishments (Article 5.3 (n) of the Directive);
- Other relevant exceptions foreseen in that Directive:
  - Public interest exception for teaching and research purposes (Article 5.3 (a) of the Directive);
  - Exception to the reproduction and communication to the public right for the benefit of the disabled (Article 5.3 (b) of the Directive);
- Orphan works (works under copyright but whose owners cannot be identified or located).

**Presentation:** Mr. Tilman Lueder (TL), (DG MARKT D1) presented 3 issues

- The relevant aspects of the draft Green Paper on Copyright in the knowledge economy (exceptions and orphan works);
- Fair use (to which he explained he was opposed, as the result of its application depends on the judges, and it is unpredictable);
- Possible extension of the terms of protection in order to extend the protection to performers.

### **Questions and answers.**

**Italian national film museum:** There is no lack of predictability when applying the fair use principle to film heritage institutions. These are public institutions that have been taking care of film heritage for decades, without any commercial interest.

**Answer:** The application of the fair use concept is essentially unpredictable and therefore contradictory to the objective of achieving a common market based on the harmonisation of copyright law.

**International Video Federation (IVF):** Right-holders are open to negotiate with film heritage institutions the use of materials.

**British Film Institute (BFI):** Good will is necessary on both sides (film archives and film producers) in order to make films available (in particular for educational purposes).

### **Note:**

The Green Paper on Copy-right in the Knowledge Economy was adopted on 16 July 2008. Stakeholders are invited to send comments by 30 November 2008.

The documents is available in all official languages on the following website:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0466:FIN:EN:PDF>

## **MEDIA VoD project (European Film Treasures)**

### **Introduction:**

'European Film Treasures' aims at preserving and distributing in digital format an important part of Europe's audiovisual heritage by making films from all genres and time periods of AV production (from the end of the 19<sup>th</sup> C up to nowadays), available online to the general public for free.

**Presentation:** Carasco Clément (EACEA, MEDIA Programme)

More information available at

[http://ec.europa.eu/information\\_society/media/newtech/vod\\_dcc/list/docs/results\\_call\\_13\\_2007.pdf](http://ec.europa.eu/information_society/media/newtech/vod_dcc/list/docs/results_call_13_2007.pdf)

## Orphan works

### **Introduction:**

The treatment of orphan works plays a major role in the making available of content online, notably as part of the digital libraries initiative, as a large share of works currently held by film archives falls into this category. Therefore, the Copyright Subgroup of the High level group on digital libraries has provided the framework for the development of a memorandum of understanding (MoU) between cultural institutions and rights holder organisations that provides guidance on the steps to be taken before a work can be declared orphan. This memorandum was endorsed by 24 stakeholders on 4 June 2008 at a meeting convened by the Commission.

**Presentation:** Mr. Luis Ferrao (DG INFSO E4) (see slides).

### **Questions and answers.**

**FIAPF** remarked that general policy efforts should encourage the inclusion into publicly accessible databases, content hubs, etc. of copyright material alongside orphan works and works in the public domain.

**ACE** said that the issues of facilitating the use of orphan works had not been successfully addressed by the MoU, and that the European Commission referred to matter to Member State. **LF** replied that the possible uses of orphan works this was not part of the original working brief of the group, and that there were already initiatives from Member States in this area.

The **BFI** stressed the continued uncertainty with respect to making content available for remuneration that had not been removed by the MoU, calling for a coordinated effort between DGs MARKT and INFSO at European level. **LF** responded that the nature of the European activity in this field lies in complementing national initiatives. Moreover, the MoU has the virtue of defining what it is understood by "reasonable search", which was not the case until now. **JEC** pointed out that discussions on copyright issues will continue with the publication of Green Paper on copyright in the knowledge economy and that stakeholders were invited to get involved in that discussion.

### **Conclusion:**

The memorandum of understanding will be made available in other languages than EN in due course.

More information available on

### Europeana

**John Purday (EDL)** gave an overview of the current state of play on Europeana (see slides). The public prototype is expected to be ready for launch by November 2008, in conjunction with the meeting of the Council of Ministers. He stressed the need for continued Member State support to the initiative.

More information available on  
<http://www.europeana.eu>

### Establishment of a national strategy on film heritage

**Richard Paterson (BFI)** presented the strategy for UK screen heritage (see slides), highlighting conservation issues (preventive/active conservation), documentation challenges (proper inventory documentation) and funding support and the future financing strategy.

### Making film heritage available: [www.screenonline.org.uk](http://www.screenonline.org.uk)

**Richard Paterson (BFI)** presented the screenonline initiative (see slides) with an emphasis on key technology and copyright issues (media asset management; ingest and encoding formats; hosting; security and rights management).

### The film heritage network in France

**Béatrice de Pastre (CNC)** spoke about the manner in which public and private institutions cooperate in France for the preservation of the national film heritage (see text of speech).

### Databases: [www.elonet.fi](http://www.elonet.fi)

**Tapio Riihimäki (Finnish National Audiovisual Archive)** presented the Finnish film database [www.elonet.fi](http://www.elonet.fi) (see slides) as an example of how to make filmographic data available via a multilingual online database. Elonet.fi is produced in collaboration with the national board of film classification, which supplies ratings information.

### **Professional training: International Annual workshop about film archives**

**María García Barquero (Filmoteca Española)** gave a talk on the international annual workshop convened by her institution to bring together experts from film archives (see text of speech). Participation is open to anyone able to converse in Spanish, which is the working language of the workshop.

### **Professional training: FIAF Summer School**

**Davide Pozzi (Cineteca di Bologna)** presented the work of the FIAF Summer School in the field of film restoration, describing the curriculum, selection procedure, composition of participants and presenting 'live' examples from the work carried out at the Summer School (see slides).

### **Education: Example of education projects: "Film i skolen", "Filmstriben"**

**Dan Nissen (Danish Film Institute)** presented two projects designed to make film heritage available in the context of educational institutions and the financing schemes supporting them (see slides).

More information available on

<http://www.dfi.dk/filmiskolen/filmiskolen.htm>

<http://www.dfi.dk/filmiskolen/filmstriben/filmstriben.htm>

### **Closing of the meeting**

The next meeting will be convened in 2009 and relevant information and documents will be communicated to stakeholders ahead of time.

*Report prepared by Oliver Füg and Mari Sol Pérez Guevara.*