

# Broadcasters' archives and orphan works

## **Cinema Expert Group**

15. October 2010

# EBU – largest association of national broadcasters in the world

ZDF



# Broadcasters' archives

**High quality and culturally diverse European content available**



**28 millions hours of radio and television programming**

**B B C** **1 million hours of radio and television programming**

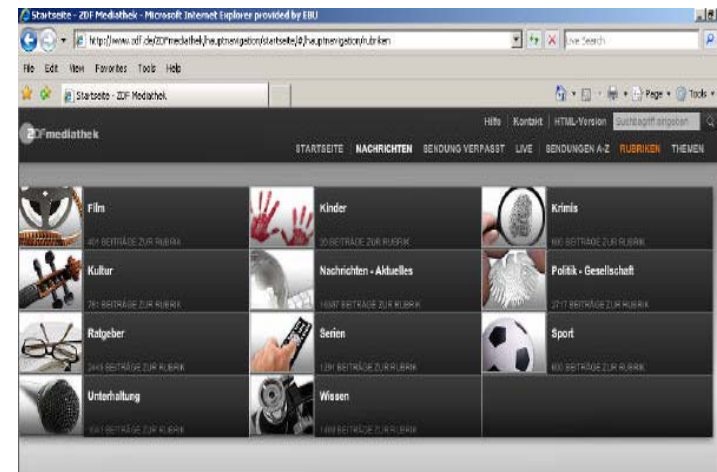
**Important part of European cultural heritage**

# From psb to audiovisual media service provider



## TV linear services

**catch-up services**  
**Online non-linear services**  
**etc.**



## Steps of right clearance - Archives

- **Finding the contract for each contribution**
- **Interpreting and checking the scope of the rights**
- **Identification of and physical search for rights holders**
- **Individual negotiation for new uses**

## Rights clearance problems in broadcasters' archives

↗ **Number of rightsholders to contact: 50-100 single contributors in ONE production**

↗ **Unknown rights**

↗ **Unknown or non-contactable rightsholders - orphan parts**

**ZDF: 70.000 contracts per year**

→ **more than 3 million since '63**

**BBC: 800 people working for three years  
potential cost: £ 72 million for staff costs alone**

# Orphan works in broadcasters' archives

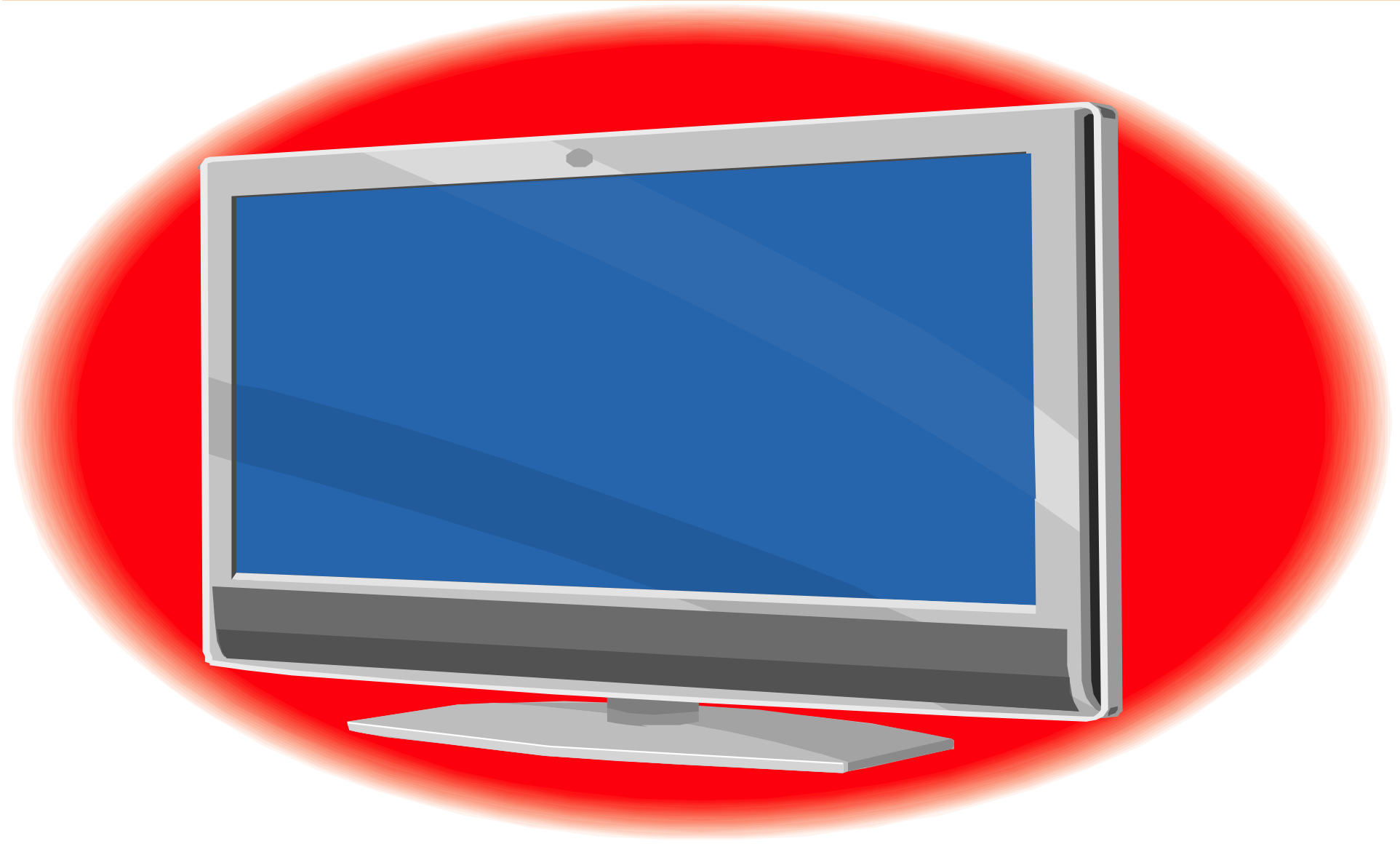
- **Broadcasters' works are not orphan as such or in totality**
- **Broadcasters are always the rightsholders**
- **Orphanity applies to parts of incorporated items**

Orphan works are part of the  problems

**BUT**

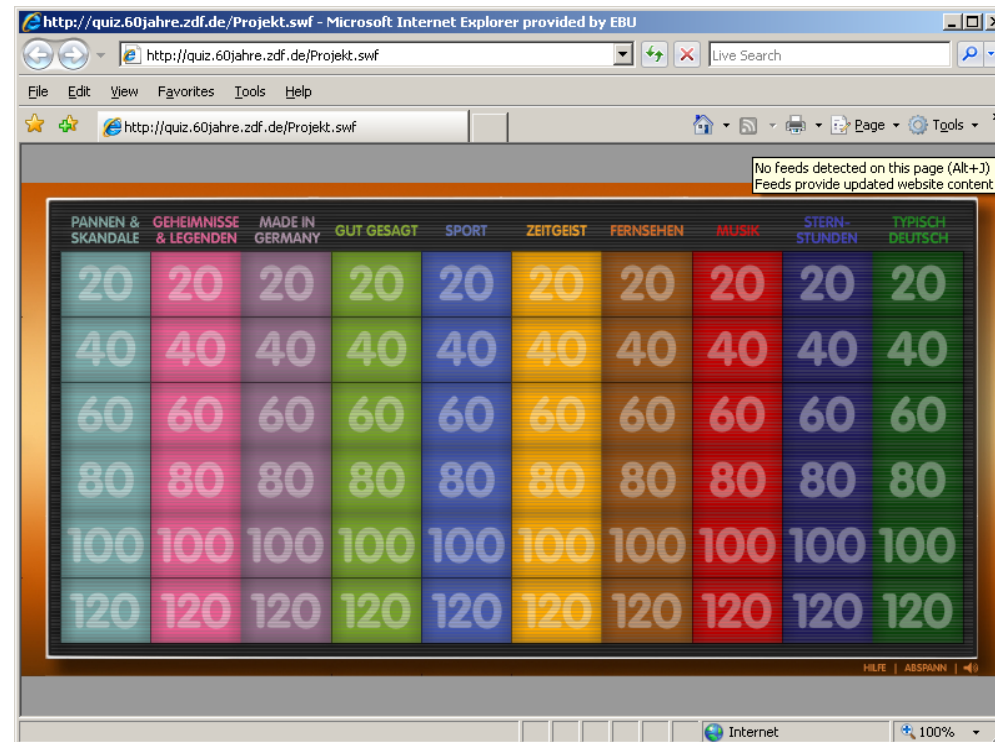
**Broadcasters' archive problems go beyond the orphan work problem**

**What happens if we can not clear all the rights?**



# What happens if we can not clear the rights?

We have to be creative !!!!!!!



# **Extended Collective Licensing**

## **The Nordic model**

- ↗ Rightsholding organisation negotiate with users the condition for a particular use of works**
- ↗ If organisation is considered to be representative than:**
- ↗ Agreement applicable to all rightsholders, even if the are not member**
- ↗ ‘opt-out’-possibility**

# **Extended Collective Licensing - ECL**

## **The Nordic model**

- ↗ Already existing – 50 years of experience**
- ↗ Flexible and future proof**
- ↗ One stop shop**
- ↗ Exclusivity and contractual freedom are respected**
- ↗ Win-win situation:**
  - Cultural heritage available to the public**
  - AND:**
  - Additional income for rightsholders**

## Conclusion

- ↗ **PSBs' archives are not orphan works as such**
- ↗ **Orphan works are part of the archives problems**
- ↗ **But archives problems go beyond the orphan works problem**

**Therefore:**

- ↗ **We need a more comprehensive solution:  
Extended Collective Licensing**

THANK  
YOU

Gracias

Grazie

Merci

Ευχαριστώ

Vielen  
Dank

Obrigado!