

**Ximon Netherlands:
a voluntary ECL model in the
audiovisual sector**

Brussels, 19 September 2017

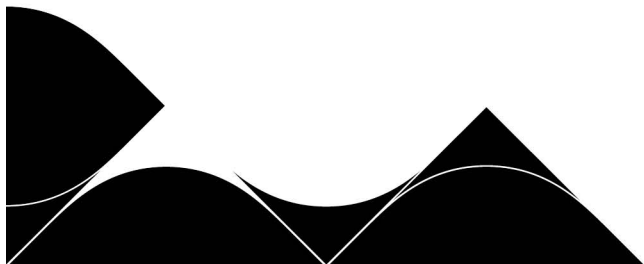




Introduction

Géraldine Vooren – Legal Counsel
(Images for the Future)

EYE Film Institute Netherlands



Introduction

- Digitization project “Images for the Future”
- Clearing practice at EYE Film Institute Netherlands
- VoD Platform Ximon: voluntary ECL model
- Negotiating with collecting societies
- Recommendation for legislation



Digitization project “Images for the Future”

Main features:

- Dutch archives received 119 million EURO from the Dutch Government
- Goal: maximum availability of the audiovisual material to the general public
- Conservation, Digitization, Contextualization and Access of 22.510 hours of film, 2.9 million photographs



Digitization project “Images for the Future”

Clearing Team (since February 2008):

- Legal Counsel
- Historian
- Volunteer



Digitization project “Images for the Future”

Clearing Results (since February 2008):

• Total of films cleared:	4051
- Public Domain	546
- Orphan Works	2300
- Contracting Party EYE	487
- License Agreements Ximon	718



Digitization project “Images for the Future”

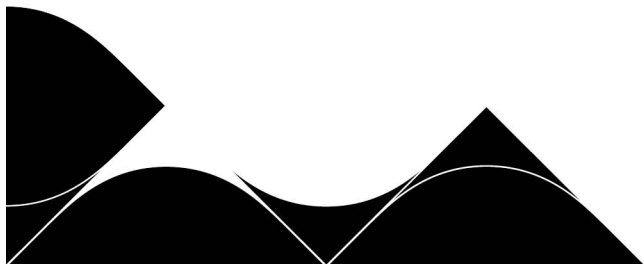
Average time spent on rights clearance:

-58 minutes per title

Variations:

-5 minutes: orphans works authors not known

- days/weeks/months: various rightholders (heirs)
difficult to trace (abroad), contracting process slow
(complex legal status)



Film Clearing at EYE

Research & data storage:

- Legal Assessment
- Diligent Search Guidelines for Orphan Works
- Development of a Data Management System

Getting Permission:

- Negotiations with Rights Management Societies
(Film / Film-related material / Photographs)
- The Battle for Signatures



VoD Platform Ximon

Ximon beta | FILMS | TV-SERIES | COLLECTIES | MAKERS | ZOEKEN | [Hallo bezoeker](#) | [Registreren](#) | [Inloggen](#)

Genres: [Drama](#) | [Spanning](#) | [Komedie](#) | [Documentaire](#) | [Arthouse](#) | [Kids](#) | [HD Films](#) | Zoek op film, tv-serie, maker...

HD FILMS

[Meest Recent](#) | [Meest Bekeken](#) | [Nieuw bij Ximon](#)

<p>Sonny Boy Drama</p>	<p>New Kids Turbo Komedie</p>	<p>Dik Trom Kids Komedie</p>
<p>Bride Flight Drama</p>	<p>Alles Is Liefde Drama Komedie</p>	<p>Zwartboek Actie Drama Spanning</p>

FULL HD

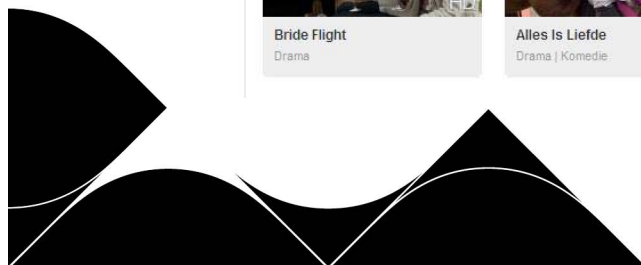
KIJKEN IN HD

Ximon wil jou een unieke en maximale kijkervaring bieden. Daarom zijn zowel nieuwe als historische films in Full HD (1080p) te bekijken. Via deze pagina kom je er gemakkelijk achter welke films in de beste kwaliteit beschikbaar zijn.

[Meer info](#)

MEER OVER HD

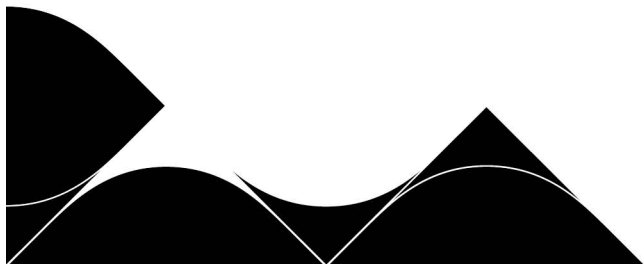
[HD-testvideo](#) | [Kijken bij Ximon](#)



VoD Platform Ximon

Main features:

- Public-private partnership:
 - Film & TV Archives
 - Producers Association
 - Unions, Guilds
 - Film Fund
 - Film Festival
 - Ministry of Culture
 - Collecting Societies
- Streaming Video-on-demand platform
- Entire Dutch Film Collection
- Launched: April 7th, 2011



VoD Platform Ximon

Repartition:

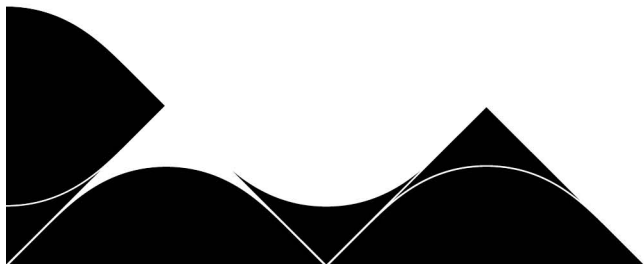
- 10 % of each paid view to collecting societies
- Contract with producer (contains indemnification) remaining 90%:
 - 65 % to licensor
 - 35 % running costs platform Ximon
- Contract with heirs (contains no indemnification) remaining 90%:
 - 50 % licensor
 - 15 % reservation for third-party claims
 - 35 % running costs platform



VoD platform Ximon

Voluntary ECL Model:

- Search for rights holders by EYE
- Individual license agreements with producers
- Collective license agreement regarding other rightsholders with Rights Management Societies
- EYE provides contact information regarding rightsholders to Rights Management Societies for repartition



VoD Platform Ximon

Voluntary ECL model:

Contracting parties Ximon B.V. /
Rights Management Societies:

- Performing Artists (NORMA)
- Writers (LIRA)
- Directors (VEVAM)
- Producers (SEKAM)
- Music Composers (BUMA / STEMRA)

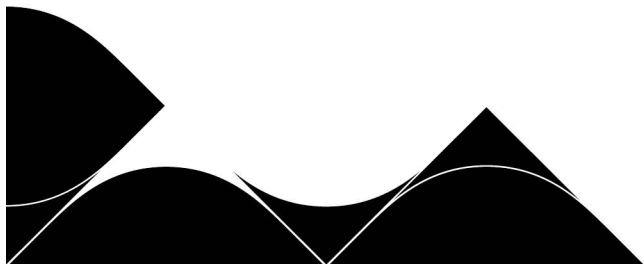


VoD Platform Ximon

ECL Ximon / Rights Management Societies

Contract information:

- Permission for those represented by RMS
- Indemnification for those not represented by RMS
- Indemnification also applies to orphan works
- Opt-out possibility for non- represented rightsholders
- Duration: three years plus automatic renewal



VoD Platform Ximon

Statistics on Ximon since launch:

- April 2011: 479 titles
September 2011: 810 titles
April 2012: 2000 titles (*milestone*)
- Post-2000: 440 titles, pre-2000: 370 titles
- Total visitors 113.000 / Unique visitors 85.000
- Visitors per week: 5.000 (total) / 4.000 (unique)
- Visitors from 130 countries: 13%



Negotiating with Rights Management Societies (Ximon)

Voluntary ECL Model, pitfalls:

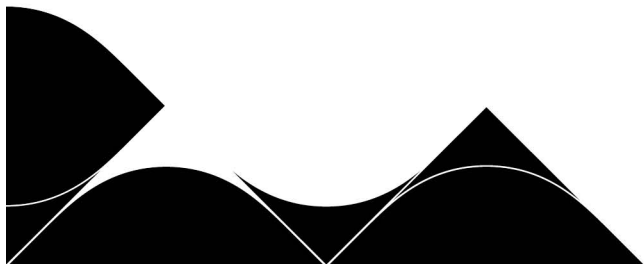
- No one-stop shop for all rightsholders
- Negotiations time-consuming (three years)
- Not all filmmakers are represented by Rights Management Societies
- Applicable only to royalty-based license agreement



Recommendation

Implementation of European legislation allowing for an ECL model for all use by cultural institutions:

- Non-commercial use: no fee
- Commercial use: limited fee





THANK YOU

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