



# DELIVERABLE

**Project Acronym:** EUscreenXL  
**Grant Agreement number:** ICT PSP 325100  
**Project Title:** EUscreenXL, the pan-European audiovisual aggregator for Europeana

## D5.2 Research Report:

### On-line publication of audiovisual heritage in Europe

Revision: Final (V2.3)

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Project co-funded by the European Commission within the ICT Policy Support Programme		
Dissemination Level		
P	Public	X
C	Confidential, only for members of the consortium and the Commission Services	

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### Document Information

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Deliverable number:	D5.2
Deliverable title:	Research on on-line publication of audiovisual heritage in Europe
Contractual date of deliverable:	February 28, 2014
Actual date of deliverable:	June 27, 2014
Author(s):	Erwin Verbruggen, Josefien Schuurman (NISV) András Kovács, Réka Markovich (ELTE), Joris Pekel, Lyubomir Kamenov (Europeana Foundation)
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Work package:	WP5
Work package title:	Network expansion and Pan-European Policies
Work package Leader:	Erwin Verbruggen
Dissemination Level:	PU
Version:	Final V2.3
Keywords:	network, advocacy, online access, intellectual property rights, copyright, benefits, barriers, user engagement, visibility

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### History of Versions

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Version	Date	Status	Author (organisation)	Description/Approval Level
1.0	10/05/14	Draft	Erwin Verbruggen (NISV)	
1.1	27/05/14	Working Draft	Erwin Verbruggen, Josefien Schuurman (NISV)	Work-in-progress for project reviewers
2.0	3/06/2014	Final draft	Erwin Verbruggen (NISV), Réka Markovich (ELTE), Lyubomir Kamenov (EF), Josefien Schuurman (NISV)	
2.1	3/06/2014	Review version	Josefien Schuurman (NISV)	Internal review and check by TD and SC
2.3	6/27/2014	FINAL	Josefien Schuurman (NISV)	

**Statement of originality:**

This deliverable contains original unpublished work except where clearly indicated otherwise. Acknowledgement of previously published material and of the work of others has been made through appropriate citation, quotation or both.

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## Executive Summary

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EUscreenXL is a network of audiovisual archives and public broadcasters around Europe. All participants have a public mission: to inform and entertain the public of the member states they operate in. Digital methods and tools have increased the possibilities to make available heritage collections of audiovisual materials. Under the pressure of shrinking budgets, many organisations have increasingly had to find ways to fund their production or preservation activities by making use of the assets that their archives hold. Footage sales and ownership protected by copyright equals part of the income of many - and free access can be seen as a public mission and a potential danger to the organisation's livelihoods. The mutual goal explored in the EUscreenXL project is to explore the different ways and parameters according to which archives can make their holdings accessible and publicly available.

One of the tasks of the EUscreenXL network, which covers all but a few European Union member states, is to explore how we can increase and beef up the availability of audiovisual heritage resources on the World Wide Web. An estimated 11,4 million hours of moving image materials are kept safely in vaults. Many of these materials have been digitised over the past decade and have made online initiatives such as the EUscreen portal, the European Film Gateway and archives' YouTube channels possible. Yet far from all of them are digital and even fewer are accessible for general audiences throughout the continent.

The EUscreen portal makes accessible a wide range of film and video materials that cover a wide range of events, culture, folklore, everyday life and news items from Europe's history. The project explores new ways of contextualising historical film and video materials, providing them with unified and clear background information and making them appealing to various kinds of users: researchers, educators, web surfers or creative industries. The project also wants to bring broadcasters and audiovisual collections closer to Europeana - a European effort from museums, libraries, galleries and archives who make their collections findable and accessible through a common platform.

This report explores the status of online audiovisual collections. It details the results of a survey which was held amongst collection managers and experts across Europe in November 2013 and explores both the various business imperatives that promote or prevent their online availability and the copyright issues that frame and scope the extent to which they can be made accessible for European and global audiences. The aim is to provide a baseline status overview that serves as input for the Strategic Agenda to Increase the Amount of Audiovisual Heritage on Europeana, which is due to be published in September 2014.

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## Table of contents

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<b>Executive Summary</b> .....	<b>3</b>
<b>Table of contents</b> .....	<b>4</b>
<b>A Introduction</b> .....	<b>5</b>
<b>B Status Update</b> .....	<b>7</b>
1 Survey on the status of audiovisual collections online: a summary.....	7
2 The position of access in the audiovisual heritage domain.....	13
3 Technical requirements for improved access .....	15
4 Collections: What can be found online .....	18
5 Remaining issues / barriers.....	25
<b>C Awareness</b> .....	<b>27</b>
1 The business challenge to public access to archive contents .....	27
2 Access in the context of Europeana.....	28
3 Awareness of mutual benefits.....	30
<b>D Legal environment</b> .....	<b>33</b>
1 Pan-European framework of IPR legislation .....	33
2 National legal frameworks (comparing national legislations to EU legislation).....	38
3 Possible solutions & best practices on a national level (Cases).....	39
4 Possible solutions on a pan-European level?.....	43
<b>E Conclusions &amp; Next Steps</b> .....	<b>47</b>
<b>Glossary</b> .....	<b>48</b>
<b>Bibliography</b> .....	<b>50</b>
<b>Appendix I: Outcomes of the survey on the status of online access to audiovisual archives</b>	<b>54</b>
<b>Appendix II: Summary of the inventory on legal environments for audiovisual collections in EUscreenXL</b> .....	<b>66</b>

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## A INTRODUCTION

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The EUscreen project started in 2009 and successfully established a network of co-operating archives and heritage institutions. This network is in turn connected to various networks in the audiovisual field. EBU is a project partner, FIAT/IFTA is an associated partner and we work closely together with the PrestoCentre on topics of digital preservation, for example.

EUscreen is a network that focuses on access. The network follows a shared metadata schema to provide access to meaningful audiovisual content. This content is available on the EUscreen website *and* is made findable through Europeana, Europe's access point to digital and digitised cultural collections. Still, only a small fragment of the materials already digitised (which is in turn only a small fragment of existing audiovisual collections) is searchable online and accessible beyond national borders.

The ENUMERATE project surveyed a wide range of cultural institutions to create a reliable baseline of statistical data about digitisation, digital preservation and online access to cultural heritage in Europe. Of the 1951 institutions surveyed during the first core survey and the 1373 institutions that responded to the second core survey, respectively, only 47 and 29 were audiovisual institutions. Slightly less than half of these (48,28%) had a written digitisation strategy. Throughout the two surveys, the reviewed audiovisual collections indicated that between 57 and 63% of their collections still needed to be digitised.<sup>1</sup> Whether or not the digital revolution is over, it remains to be seen whether all our audiovisual heritage materials will make it into the digital realm. Institutional budgets, declining availability of analogue machinery and diminishing technological knowledge might, as the *Challenges of the Digital Era for Film Heritage Institutions* report indicated<sup>2</sup> mean that the window of opportunity for audiovisual collections is rapidly closing.

All this while the potential for access to audiovisual heritage seems to be on the rise. The museum sector is undertaking a wide variety of experiments with visitor engagement for their collections, successful examples of which are celebrated annually at conferences such as *Museums and the Web* or *MuseumNext*. The audiovisual sector has its own variants of these undertakings - the *Internet Archive* in the US successfully pushes for making available large amounts of television news, for example, and both the *FIAT/IFTA Archive Achievement* and the *FOCAL International Awards* celebrate innovative uses of audiovisual heritage materials.

Yet the availability of catalogues and sources remain disputed - held within range by business and intellectual property barriers. Collection holders fear loss of control over their content or are obliged to prioritise revenue streams over public access. The omnipresence of video on the web and the high interest of Europeana's visitors in audiovisual materials underpin the urgency of our taking action. Europeana users prefer audiovisual content over other types of sources: audiovisual contents are 10 times more likely to be visited by users than other types of content.<sup>3</sup> For a number of reasons—which

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<sup>1</sup> "Figures."

<sup>2</sup> *Challenges of the Digital Era for Film Heritage Institutions*.

<sup>3</sup> "Europeana – the Case for Funding."

include intellectual property rights, domain infrastructure, the work involved in digitisation, accessibility, and metadata exchange—audiovisual material is however the type of content most difficult to make accessible.

EUscreen developed a highly interoperable platform that allows global exploration of European audiovisual heritage content and metadata. It makes materials from over 20 EU member states publicly available to researchers, educational users, the creative industries and general users alike. The content is integrated into and harmonised with Europeana, but made available online under differing archive agreements and local legislations. EUscreenXL invests in understanding the complex rights issues in an online environment, as well as new emerging user cultures and media practices from a creative industry and user point of view.

As a result, EUscreenXL intends to develop strategies, recommendations, and guidelines for solving these issues. The EUscreen project successfully solved a number of problems related to creating access to audiovisual sources, notably the interoperability at technical and metadata levels. For the new EUscreenXL project, it is essential to move beyond the success of EUscreen in order to increase drastically the amount of audiovisual collections available through Europeana. Much work in this domain was achieved in the EUscreen project by the Rights Issues working group, which did research into the *creative use and re-use of archival audiovisual content* theme. The WG took a practical approach and studied the current and emerging practices of various user groups and the issues from the user's point of view by organising hands-on workshops and experiments.<sup>4</sup>

The EUscreenXL project continues the work done in this field, but has split the two interests into a practical application and an advocacy strand. The practical application happens in Work Package 3, where pilots provide the breeding ground for new applications and contextualisation methods directed at various user groups. Work package 5 aims to support the work done in WP3, as well as the content aggregation strand in WP2, by doing fundamental research into the short-term and long-term benefits and barriers for audiovisual content holders in providing public, free access to their holdings.

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<sup>4</sup> Gowrishankar, Hyyppä, and Marttila, *Review of IPR Limitations and Recommendations*.

## **1      Survey on the status of audiovisual collections online: a summary**

Between October 21 and November 22, 2013, collection managers and legal experts were invited to participate in a survey about online access to audiovisual archives. The online survey of approximately 25 statements was sent by e-mail to 122 individuals affiliated with various audiovisual institutions across Europe. The EUscreenXL project is a cooperative effort by over 30 different European audiovisual organisations from more than 20 EU member states. As the aggregator of European audiovisual heritage, EUscreenXL depends on the cooperation of its various partners. Yet in many audiovisual organisations and within the broader domain there is a need for an increased awareness of the benefits and importance of providing collections to publicly accessible platforms. There may also be barriers that currently prevent organisations from contributing.<sup>5</sup> EUscreenXL is to focus on what will *enable* the increase in access: What will motivate and enable archives across Europe to provide public access to their archives?

The survey was created in order to obtain an overview of the status of access to their archives and collections. It also explored their current practices with regard to the process of making audiovisual materials publicly accessible and potentially adding them to a European *cultural commons*. The aim of the survey was to help identify possible shared benefits and/or barriers encountered by audiovisual archives in providing EUscreenXL and Europeana with digitised content from their collections. A total of 79 professionals from 58 organisations responded to the survey, working in archives, libraries, museums, broadcasters and universities, based in 27 countries. Of this number, approximately 40 respondents fully completed the survey. In this section we present a summary of the survey, but throughout the chapter there will be references to the outcomes of the survey. In appendix 1 the results are presented integrally.

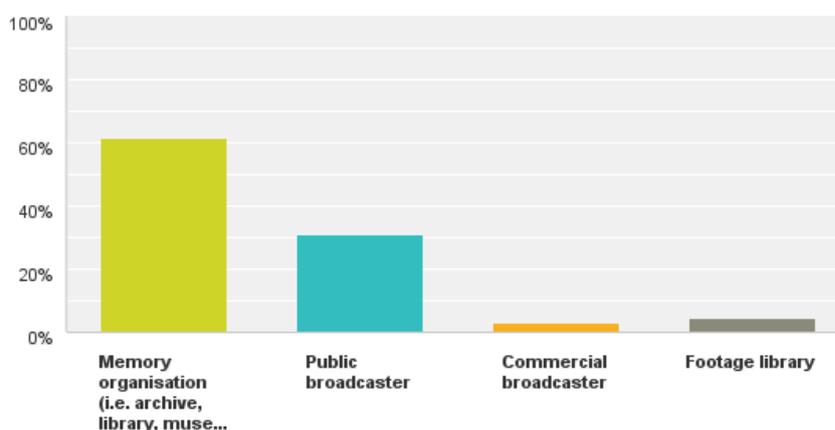
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<sup>5</sup> de Leeuw, "EUscreenXL: The Pan-European Aggregator of Audiovisual Content for Europeana."

In a recent article in the IASA journal, Kurt Deggeller, former director of the Swiss organisation Memoriav, indicated how there is a spread of organisations advocating in the audiovisual heritage field.<sup>6</sup> This claim seems to be supported by the respondent's membership cards.

#### Q4 Please select the main activity of your organization

Answered: 65 Skipped: 14



The 54 participating organisations are together 137 times member of representative organisation. This is without participation in the EUScreen Foundation. At the top is FIAT/IFTA, the International Federation of Television Archives. Other memberships that the respondents indicated were equally numerous and included many regional organisations.<sup>7</sup> We asked respondents how long they had been working at their organisation. This provoked a rather surprising response. Respondents actually work at their organisation for quite a time. Most of them have consciously been involved in the paradigm shift of analogue collection management to the digital area. If we look at their position, many of them are heads of departments or archives (30 respondents claim to be in a senior management position). This means their statements on archival policies and the benefits and barriers of online access are absolutely valid in terms of domain knowledge and experience of the European playing field.

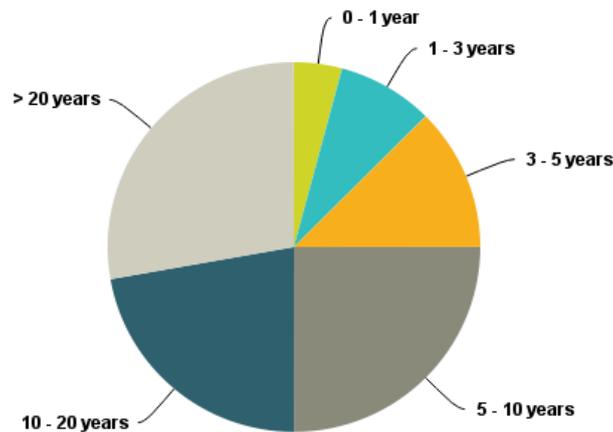
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<sup>6</sup> Deggeller, "Establishing Common Platforms for Joint Initiatives in the Heritage Field."

<sup>7</sup> Such as *Media Archives Austria* (MAA), the *Baltic Audiovisual Archival Council* (BAAC), *Professionels Images Archives de la Francophonie* (PIAF), *Associazione Videoteche Mediateche Italiane* (AVI), the *British Universities Film & Video Council* (BUFVC) and Italy-based *Centro Sperimentale* as well as thematic organisations such as the *Association for Recorded Sound Collections* (ARSC), *Association Inédits* (amateur films / memory of Europe) and the *International Internet Preservation Consortium* (IIPC) and a number of library associations, including the *Digital Research Infrastructure for the Arts and Humanities* DARIAH, IFLA's *Audiovisual and Multimedia Section*, the *Association of European Research Libraries* (LIBER), the *Consortium of European Research Libraries* (CERL) and the *International Association of Music Libraries, Archives and Documentation Centres* (IAML).

## Q2 How long have you worked at your organisation?

Answered: 72 Skipped: 7



The survey was split into two parts: one directed at collection experts, another at legal experts. Respondents were invited to describe themselves in this way. 11 of the respondents indicated themselves as legal experts, 63 as collection experts.<sup>8</sup> Here we will present an analysis of the second part provided by collection experts.

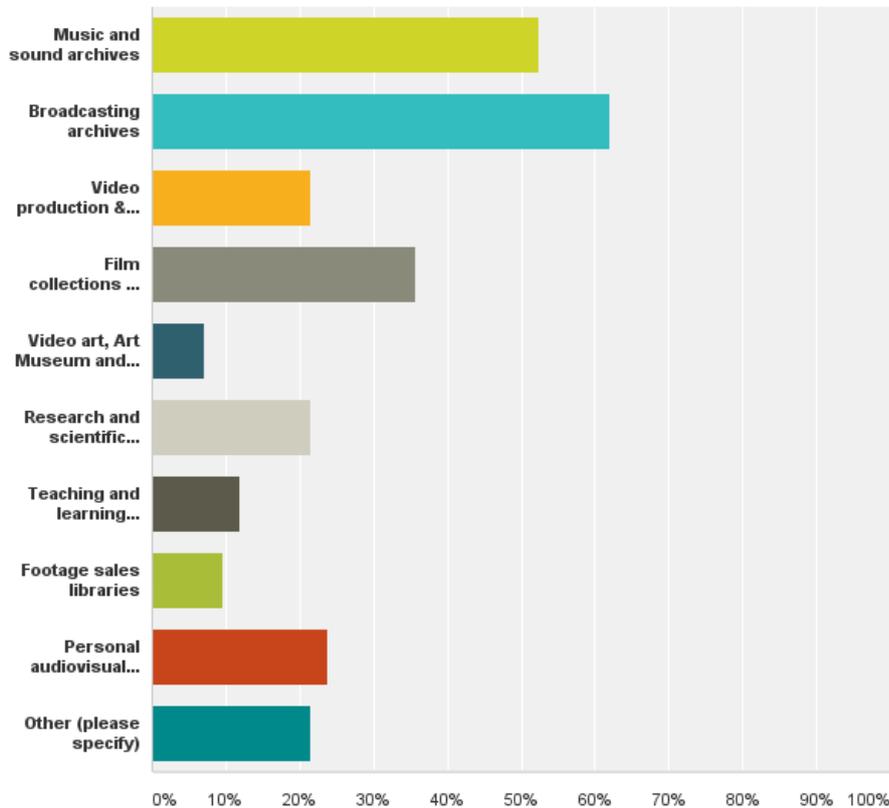
Within the range of responses the focus was on broadcasting archives (62%) followed by music and sound archives. There was the option to select multiple types of holdings. Overall many types of collections were selected. This is combined with a focus on collections with a national and international geographical range (together 87,5%) and the characteristic that many hold materials from the past 40 years. Only a few organizations have a substantial amount of audiovisual material before 1950. In this context questions on digitization, access and IP were answered.

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<sup>8</sup> One respondent did not answer.

### Q29 What are the main types of your holdings?

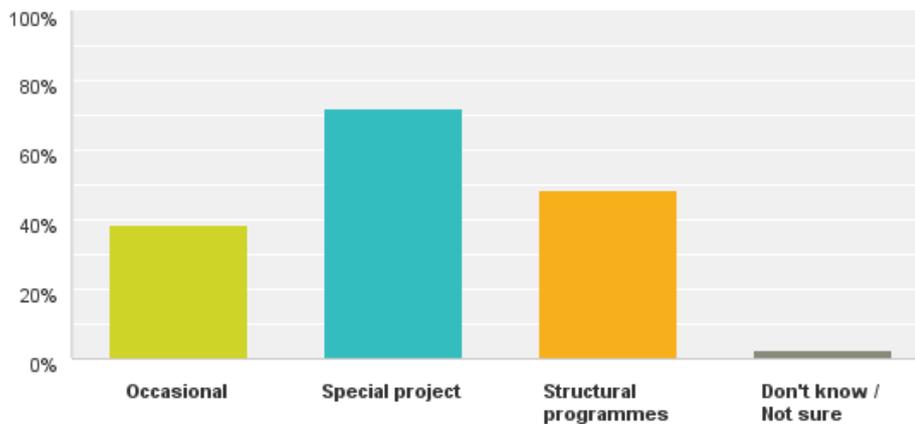
Answered: 42 Skipped: 37



Digitization has become one of the core activities of about half of the respondents asked to characterize the multiple digitization activities of their organization. Structural programmes for digitizing the collections are well spread. Five organizations organize their digitization activities via the three funding structures and 23 via 2 combining structural programmes with occasional or dedicated projects.

**Q32 How would you characterize the digitization activities of your institution?  
You may select multiple answers**

Answered: 39 Skipped: 40



We can conclude that a serious amount of the audiovisual collections is digitally available. Funding of the last 15 years has resulted in the average digital availability of almost 50% of the audiovisual holdings in broadcasting archives and audiovisual memory institutions. This is a serious leap forward – and in line with results from the ENUMERATE survey. However if we take a look at the percentage of materials from collections that are actually available online then the percentages drop by half. There is a gap between the effort invested in digitization of collections and the resulting increase in access to these collections.

Q33	What estimated percentage of your audiovisual collections is currently <b>available in digital form</b> ?		
	Film in %	Audio in %	Video in %
<b>AVERAGE</b>	31,7	44,6	47,6

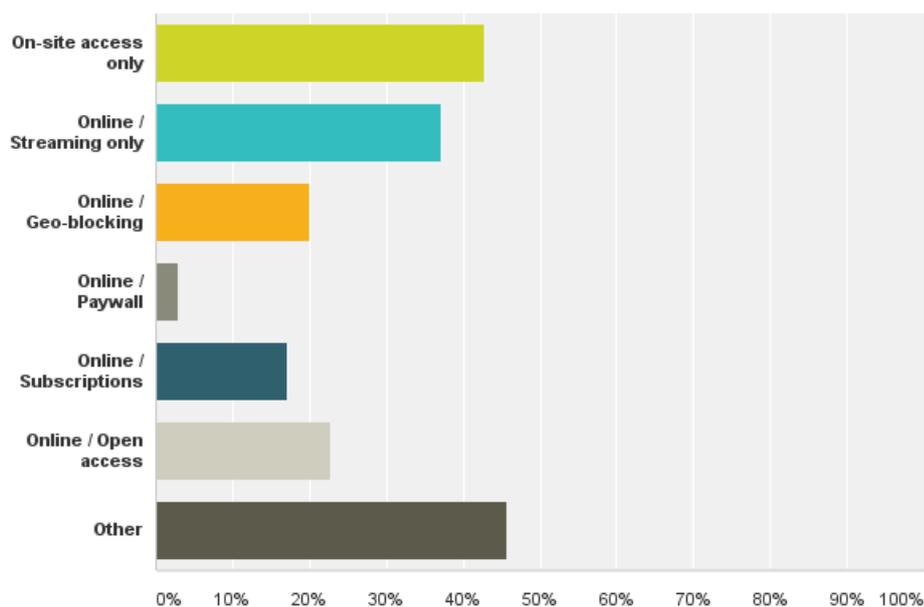
Q34	What estimated percentage of the audiovisual collections is currently <b>accessible online</b> ?		
	Film in %	Audio in %	Video in %
<b>AVERAGE</b>	16	17,5	18,9

Again if these two overviews are compared to the copyrights institutions have related to their holdings then a huge part of the collection experts indicate that their institutions only have partial rights (71%) or no rights but legal obligations to make works accessible to (specific) users. And of the 16 to 19

percent of online accessible materials, they exist under the following conditions (see chart Q38). From the survey a diverse landscape arises in which every institutions is developing activities and strategies dealing with the specific legal context of its position and country.

### Q38 What type of access do you provide for your digital collections? You may select multiple answers

Answered: 35 Skipped: 44



Types of access indicated by the survey participants. In the *Other* category main input was that access is diversified, depending on the specifics of a collection; 'no access at all' by 5 respondents; two times access via copies on portable devices like copies DVD's; and two indicated that access is only arranged for educators and learners.

## 2 The position of access in the audiovisual heritage domain

EUScreenXL is a network that has existed for well over ten years. Its uniqueness lies in its bringing together audiovisual archives across the board to explore issues of accessibility. Questions such as the extent of reuse archives are able to allow, how to reach and serve various audiences and gain interest in longer pieces of archival content are explored in changing settings. The *Video Active* project focused on elaborate articles linking and comparing sources from across Europe. The *EUScreen* project offered an accessible interface and advanced search options for a large collection of videos that had to a large extent been made interoperable. The EUScreenXL project further aggregates numerous sources that archives present online.

The “post-digital revolution” era we find ourselves in offers a lot of potential and an equal amount of perceived threats to the archivist of moving imagery. The web offers scores of possibilities for handpicked, well-curated nostalgia collections: websites, as Erin Scimes put it, have grown to be *institutions* that “collect, preserve, attend to, and create themed content packages that together, offer a unique perspective”.<sup>9</sup> Media production itself is changing: television productions are increasingly inviting their audiences to react via online channels<sup>10</sup> and programme producers bend television formats to ready-made pieces for online sharing.<sup>11</sup> Memory content can provoke intensely personal reactions and is therefore, albeit far removed from the polished, fast-cut rhythm of contemporary media productions, a welcome and necessary part of the media mix we find online. The EUScreen portal has been online in beta functionality since 2011 and has since, both through Twitter and direct messages, received many highly personal messages of people recognising loved ones or places that once played a role in their lives. Recent trend reports such as the New York Times’ leaked *Innovation* report, underline the demand for archival content – especially so when this old content is repackaged into new formats, such as a simple, yet effective, Flipboard magazine:<sup>12</sup>

*The report cites Gawker repackaging a 161-year-old Times story on Solomon Northup timed with the release of 12 Years A Slave. “We can be both a daily newsletter and a library — offering news every day, as well as providing context, relevance and timeless works of journalism.”*<sup>13</sup>

In terms of monetising archival content through the general public, however, the challenge is ever increasing. Many archives - such as Ina Médiapro and the collection of RTBF, which is licensed through its digitisation service provider Sonuma - have built extensive business portals around their content.<sup>14</sup> The wider media market is facing immense challenges in which it needs to rethink its business models. Current publishing practices focus on digital eyes, digital interaction and *spreadability*.<sup>15</sup> Archive

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<sup>9</sup> Scime, “The Content Strategist as Digital Curator.”

<sup>10</sup> Ross, “Television’s Invitation to Participate.”

<sup>11</sup> Scime, “What Matters Most for Online TV Is Where, Which Clip and Why.”

<sup>12</sup> *Innovation*, 33.

<sup>13</sup> Benton, “The Leaked New York Times Innovation Report Is One of the Key Documents of This Media Age.”

<sup>14</sup> Jean-luc Vernhet and Jean Louis Rollé, “Selling Content in a Changing Economy.”

<sup>15</sup> Jenkins, Ford, and Green, *Spreadable Media: Creating Value and Meaning in a Networked Culture*.

materials are an attractive asset, but need focus, attention, time and well-crafted stories to attract contemporary visitors into distant worlds from the past.

EUscreenXL explores these connections with partners from all across Europe and in various professional settings. It finds itself well connected to a range of professional networks that, as Kurt Deggeller describes it, include “senior managers of institutions specializing in audiovisual heritage” as well as “persons with specific skills necessary for supervising audiovisual collections”.<sup>16</sup> Peter B. Kaufman proposed the image of audiovisual collections forming a sort of crude oil – ready to be refined, reassembled and made into a new creative product:

*In the same way that oil, pumped from the ground, is refined and then used to fuel transportation and industry, or iron, mined from the ground, is smelted into steel and used in construction, so audiovisual materials mined from the archives form part of the backbone of information, communication, and our creative knowledge economy, worldwide.*<sup>17</sup>

His report took a look at 124 years of audiovisual archiving and how the challenge of preserving moving images and sounds has reached increasing levels of complexity. This increased complexity, not in the least caused by the advent of digital production and storage methods, leads to a mirrored exchange between the access and preservation tasks of the contemporary archive: *twin missions*, as Kaufman calls them, that “twist around each other like the double helix of a modern memory institution’s DNA.”<sup>18</sup> The paper investigated the forms and methods audiovisual archives have been approaching to fund this double mission and how they have shifted some of their attention towards possible cooperation with businesses and even taken advantage of existing commercial opportunities.

In order to define the value of an audiovisual collection, one needs to get a clear idea about the costs involved – by mouth of one of the interviewees, the report states that “use has begun to define value”.<sup>19</sup> Inversely, an item that is not well preserved cannot be found and thus not used by anyone, ever again. The paper stressed the importance of access as a form of *open* access: the value that lies in use, sharing, reuse can only be realised when unrestricted online access allows participant from different online realms can use web tools to popularise and contextualise the assets.

The paper further suggests that in the double helix between preservation and access, “support for one is support for both”. It also underlined the need for the audiovisual archiving field to, in dealing with the multi-billion dollar business partners who are currently so important for finding, exploring, discovering and buying media on the web, be well aware of its value and importance, and of the sensitivities we share and the experiences we’ve had. No agent has been retained to represent the interests of libraries, archives, and museums; in the way an author or musician might retain one. No lawyers have been hired to pore over the body of agreements to date and highlight best practices for the community. No working group that focused exclusively on improving public-private partnerships has been assembled and charged with a mission and a deadline.

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<sup>16</sup> Deggeller, “Establishing Common Platforms for Joint Initiatives in the Heritage Field.”

<sup>17</sup> Kaufman, *Assessing the Audiovisual Archive Market*, 4.

<sup>18</sup> *Ibid.*, 2.

<sup>19</sup> *Ibid.*, 3.

### 3 Technical requirements for improved access

#### Preservation before Access

Audiovisual archive collections can roughly be divided along two axes. The analogue axis comprises a range of formats that rely on optical and magnetic storage technologies to hold images and their corresponding sound waves. Overall, the inverted timeline is such that the older the recording technology is, the longer it has proven to physically be able to withstand the prongs of time. Later technologies – magnetic spores on plastic tape – have a survival rate that is much lower than that of analogue film. The same holds true for many of the later film stocks when compared to their volatile predecessors from the nitrate period. Access to these media that requires an act of digitisation.

The care of the originals to extend their lifetime to the limits of the physically possible is massively important from both an archival and an access perspective. User needs change. Continuously. Rapidly. The screens that QuickTime movies needed to fill in 1995 had thoroughly different demands from the over-the-top 4K home theatre displays in vogue in 2015. Besides the careful attention that archives have spent on the frame-by-frame restoration of forgotten classics<sup>20</sup>, commercial providers have built entirely new business models around re-formatting television series shot on film into 4K quality productions.<sup>21</sup>

The born-digital axis is much more ready for online access, it would seem. But preservation formats are scattered and in flux. Access 'copies' need constant transcoding and migration. For digital productions in the cinematic domain, some film archives have managed to close deals with public funders where a digital master copy needs to be stored in the archive, thus securing the films' preservation from the onset. Broadcast archives have a hard time deciding what parts of the daily production to keep: The MXF as sent into the broadcast signal? The raw production files? Every kilobyte that makes it into long-term storage needs to be accounted for in the coming series of migrations, quality checks and possible transcoding efforts in order to keep the bit stream available until multiple generations of hard drives have failed.

In the meantime, audiovisual archives are building expertise on storage technologies, together with commercial storage providers with track records in other domains. Because of the large amounts of data that audiovisual archives need to process, their knowledge becomes extensive. As a paper by DEN, OCLC and UNESCO notes:

*[T]he high costs of mass storage and maintenance of digital content, often much underestimated by funders, are pressing the heritage institutions to devise new cost-recovery services to make ends meet. Both KB [National library of the Netherlands] and [the Netherlands Institute for] Sound and Vision have experimented with providing paid services. There are no fully developed business models yet, but progress is expected.*<sup>22</sup>

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<sup>20</sup> Parth, Hanley, and Ballhausen, *Work/s in Progress*.

<sup>21</sup> Stout, "Remastering the Past for the 4K Future."

<sup>22</sup> Marco de Niet, Titia van der Werf, and Vincent Wintermans, "Lessons Learned from Large Scale Digital Preservation Projects in The Netherlands."

### From the archive to the front-end: Managing audiovisual collections

Digital preservation is a need and a worry. It is Accountable: easily translated into management forecasts. Therefore, what also needs to be accounted for is the interest and need of clients, customers and audiences. Digital analytics have increased in importance to prove the impact and worthiness of digital activities. In the museum domain, the *Let's Get Real*<sup>23</sup> and *Museum Analytics* projects have brought analytics skills to both marketing and curatorial departments. In the broadcast domain, numbers have run the show for a much longer time, and with the increased divergence of entry channels, and diminishing advertising income, managing departments are looking for way to keep a close look at the numbers game. Yet for archival materials it goes that the content is not necessarily *popular* in the same way that a TV series is. But they can make an impact.

What shouldn't be forgotten, here, is that digital platforms cost money – not just at the stage of initiation, but throughout their entire existence, as servers need to be kept running, software patched and updated, and bandwidth generously provided. As researched in depth by Susanna Kleeman in EUscreenXL Deliverable 6.2,<sup>24</sup> each partner in the project has differing methods of providing funds for their online portals. Organisations try various ways of asserting the usefulness of these platforms. One, as proposed by Simon Tanner from King's College, is titled the *Balanced Value Impact Model (BVIM)*.<sup>25</sup> Impact as defined by Tanner is seen as:

*[T]he measurable outcomes arising from the existence of a digital resource that demonstrate a change in the life or life opportunities of the community for which the resource is intended.*<sup>26</sup>

Tanner proposes a range of benefits and values that can accrue from digital resources and collections – both from the academic and the public perspective. The author asserts that “[m]easuring and interpreting the broad impact of digital resources” should take into account a full appreciation of “the actual way in which end users interact with such digital content. Digital projects and programmes need to engage with the core principle of [impact assessment]: how does this change people's lives?”.<sup>27</sup>

At the highest level he summarises the benefits as

- Learning: Educational benefits are gained from a wide variety of activities introducing people to new digitized information and digital experiences.
- Research: Research benefits accrue when we invest in deepening our understanding of the world and build upon the intellectual legacy of previous generations.
- Consumption - intended to include both the “entertainment” value of engaging with digital content and the personal value added from participating in a community of use.
- Strengthening communities: Digital resources make it possible for communities to sometimes grow more cohesive as common interests and a common vision can be shared.
- Building collaboration: Working together in collaboration maximizes opportunities – whether for research, education or societal benefits. Collaboration also has shown a strong support to building recognition internationally, leading to new economic and innovation opportunities.

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<sup>23</sup> Finnis, Chan, and Clements, *Let's Get Real*. “How to Evaluate Online Success?”; Malde et al., *Let's Get Real 2: Report from the Second Culture24 Action Research Project*.

<sup>24</sup> Kleeman, *D6.2 Market Survey and Business Models.pdf*.

<sup>25</sup> Tanner, “Measuring the Impact of Digital Resources - the Balanced Value Impact Model.”

<sup>26</sup> Ibid.

<sup>27</sup> Ibid., 23.

- The British university brand: giving access to a high volume of digital content will confer a high profile to the quality of the institution's work.<sup>28</sup>

The other framework, as proposed by Ithaka S+R, is *Value Assessment*.<sup>29</sup> Nancy Maron proposes that the sustainability of online projects is often largely dependent on larger structural and operational issues; the creation of workflows that fully integrate digital content with the storage, search and preservation practices of the institution and the adoption of portfolio strategies to prioritise investments and to determine where scale solutions work and where a more targeted solution is needed.<sup>30</sup> The Framework is introduced as:

*a means to encourage project leaders to consider the ways in which their project is particularly valuable, and to whom, as a first step in considering the most likely sources of financial support. For one type of project, content or innovative tools may offer a source of value; for another it might be the strength of a large audience of devoted users. The Value Assessment Framework suggests four main sources of value in digital resources: content, technical platform and tools, audience and mission.*<sup>31</sup>

In order to manage digital assets, whether publicly accessible proxies or master archive files in deep storage, any archive needs to make use of a system that can keep track of where these all go. As the first Presto4U Tech Report asserts: Media Asset Management is an on-going challenge for archives.<sup>32</sup> While the migration of analogue assets has for some collections been nearly completed, technological solutions for managing them have been found. Yet not all producers of asset management technology are aware of the utility and needs of archives, such as “the reliability of the storage, the accessibility of the content, the metadata handling available and the search and retrieval capability.”<sup>33</sup> Many of these asset management systems make use of some standards, but do provide vendor-specific annotation systems which lets an archive run the risk of ending up with vendor lock-in. Both archives and technology providers find themselves in a period where standardisation efforts, new format development and the increasing demands of consumer output devices are all running in parallel, with no clear one-size-fits-all solutions. In the cinematic sphere, standardisation is more accomplished, coming from the Digital Cinema's Initiative's undertakings, but discussions about the perfect file format encompassing all forms of historical screening methods have not yet ended.<sup>34</sup>

### **Developments and fundamental research in access technology**

As we explored in earlier reports<sup>35</sup>, audiovisual heritage collections are part of a media environment that is increasingly diversified. While editors and brands have an increasing need for popular content to attract and stimulate audience engagement, archival materials require a curated approach to make

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<sup>28</sup> Ibid., 21.

<sup>29</sup> Maron, *A Guide to the Best Revenue Models and Funding Sources for Your Digital Resources*.

<sup>30</sup> Ibid., 20.

<sup>31</sup> Ibid., 2.

<sup>32</sup> *AV Digitisation and Digital Preservation TechWatch Report*.

<sup>33</sup> Ibid.

<sup>34</sup> Helt, “Preservation Oriented Codecs and Wrappers for Scanned Films.”

<sup>35</sup> van den Heuvel and Baltussen, *D7.6.1: Online Access to Audiovisual Heritage Status Report*; Verbruggen and Oomen, *D7.6.2: Online Access to Audiovisual Heritage Status Report*.

it into the world – made findable and contextualised in a larger framework. The tools to do so are becoming more and more versatile, as various online projects explore the limitations of a boxed, non-interactive timeline experience.<sup>36</sup> Audiovisual archives experiment with user engagement by setting up participatory projects (such as *Waisda?* in The Netherlands<sup>37</sup> or the BBC's World Service project<sup>38</sup>) or by deploying the power of social media tools such as Twitter and Vine (as exemplified by RTÉ Archives).<sup>39</sup> Much research into the opening up of archives resides on the side of Linked Open Data and the expectation that automated enrichment can help content producers to more easily find, link to and reuse archival sources in new productions. RTBF, for example, developed the GEMS system, which brought semantic technologies into its production systems to aid image researchers locate unseen content.<sup>40</sup>

The goal of the *MediaMixer* project, which ended at the close of April 2014, was to support industry and academia in understanding and taking up innovative multimedia technology for media analysis, semantic annotation, rights management and media fragments. MediaMixer technologies cover media analysis, annotation, fragmentation, rights management and re-use.<sup>41</sup> MediaMixer worked with several industry domains to produce use cases and demonstrators, which focused on the areas of media owners (copyright management), media producers (TV newsrooms) and media distributors (e-learning video platform). The *LinkedTV* project aims to offer archive materials a second life by making them suitable and findable for second screen applications. Here, the same confusion about standardisation is taking place: LinkedTV works on a standard for multimedia annotation services<sup>42</sup>. Another project works on standardising the interactivity experiences of Smart and connected televisions. The Hybrid Broadcast Broadband TV (HbbTV) is a new international standard supported by virtually every new television. Broadcasters and distributors can use it to offer innovative services. HbbTV is used in much of Western Europe, with the most advanced services offered in France, Germany, Poland and Spain.<sup>43</sup>

#### 4 Collections: What can be found online

The amount, breadth and scope of audiovisual materials are as wide and varied as the topics they report on. Below, we give a succinct overview of recent initiatives and developments in the making available of audiovisual collections online.

##### World War I in Moving Images

1914 marks an important centenary for Europe's turbulent history. It is the turning point for many developments in the industrial catalogue, including the cinematic apparatus, which throughout the

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<sup>36</sup> Trautman, "RIP Flash: Why HTML5 Will Finally Take Over Video and Web in 2014."

<sup>37</sup> Gligorov, "User-Generated Metadata in Audio-Visual Collections."

<sup>38</sup> Raimond and Ferne, "The BBC World Service Archive Prototype."

<sup>39</sup> Wylie, "RTÉ Archives Twitterproject."

<sup>40</sup> Jacques-Jourion, "GEMS The Future Is Now: Semantics for [audiovisual] Dummies."

<sup>41</sup> Huet et al., *Technical Report on the MediaMixer Core Technologies*.

<sup>42</sup> Nixon and Troncy, "Survey of Semantic Media Annotation Tools - towards New Media Applications with Linked Media."

<sup>43</sup> HbbTV Forum Nederland, "Overview of Interactive Television Services according to the HbbTV Standard in Europe."

years of the Great War lived through a turbulent development. Various initiatives have been set up to commemorate and visualise the events that were taking place around that time. Notably, Europeana set up a portal to crown its user generated content activities of the past few years<sup>44</sup> and broadcasters such as ARTE in France,<sup>45</sup> the BBC in the UK<sup>46</sup> and NTR in The Netherlands<sup>47</sup> set up dedicated portals to recount the stories. From the audiovisual archive domain came EFG1914. It was a follow-up project of the EFG project which set up the online portal *The European Film Gateway*,<sup>48</sup> which gives access to several hundreds of thousands photos, films, texts and other material preserved in European film archives. EFG1914 was a two-year digitisation project focusing on films and non-film material from and related to World War I. 26 Partners<sup>49</sup>, among them 21 European film archives, digitised 701 hours of film and ca. 6,100 film-related documents from and about the First World War. The project now gives access to ca. 740 hours of films and 6,100 film-related documents through the European Film Gateway and through Europeana. The project also built a Virtual Exhibition<sup>50</sup> using selected objects digitised in EFG1914.

EFG1914 covers all the different genres and sub-genres relevant for that time: Newsreels, documentaries, fiction films and propaganda films. Moreover, EFG1914 also gives access to anti-war films mainly produced after 1918 that reflect the tragedies of the 1910s. This material is of special importance since only around 20% of the complete silent film production output survived in film heritage institutions and elsewhere. Therefore, EFG1914 set out to digitise a crucial part and a critical mass of these remaining moving image records, mostly undiscovered by the public.

### Personal & Private History Collections

History is a topic that can bring great enthusiasm and inspire passion projects with individuals not necessarily employed in the heritage sector. For the third time, the Dutch National Archives recently awarded the *Jan Kompagnie Prijs* - a prize for the small, personal acts in history. About half of the contenders were museums and archives, the other half private individuals who put their spare time into a digging up, combining and presenting a historical topic on, for instance, an easily made attractive Wordpress installation.

Koningsbergen.nl is an example of such a site and aims to keep alive the memory of the lost German city of Königsberg. The former 'pearl of the Baltic Sea', was heavily bombed in August 1944 and March/April 1945 by both the British RAF and the Red Army. After the war, the city – and half of East Prussia – was incorporated in the USSR and renamed Kaliningrad. Instead of rebuilding the city, the Soviets eradicated practically all damaged historical buildings, including the ruins of the former Schloss. After the collapse of the USSR, Kaliningrad remained part of Russia – and still is today. Koningsbergen.nl intends to reconstruct the memories from Königsberg and includes descriptions of

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<sup>44</sup> <http://www.europeana1914-1918.eu/en> <accessed May 15, 2014>

<sup>45</sup> <http://1914dernieresnouvelles.arte.tv/> <accessed May 15, 2014>

<sup>46</sup> <https://livesofthefirstworldwar.org/> <accessed May 15, 2014>

<sup>47</sup> [www.geschiedenis24.nl/wo1/longread](http://www.geschiedenis24.nl/wo1/longread) <accessed May 15, 2014>

<sup>48</sup> <http://www.europeanfilmgateway.eu/> <accessed May 15, 2014>

<sup>49</sup> See full list at [project.efg1914.eu/partners/](http://project.efg1914.eu/partners/) <accessed May 15, 2014>

<sup>50</sup> <http://exhibition.europeanfilmgateway.eu/efg1914/welcome> <accessed May 15, 2014>

several buildings, book reviews, a small webshop and info on places to visit in and around Holland that are related to the history of Königsberg.

Private collections held in institutions have gained visibility and ground. The Netherlands Institute for Sound and Vision, in association with regional archives from Groningen, Rotterdam and Limburg launched the Amateur Film Platform in February 2013. The objectives of the platform were to fill the gaps in the institute's amateur collections, with an emphasis on footage captured on video carriers such as VHS, MiniDV, Hi8, Video8, Betamax and Digital8. The existing collection, together with the crowd sourced videos collected at local Home Movie Day events, was further described and made available on an online portal<sup>51</sup> in order to create awareness of the significant cultural and social value of amateur films and videos. Ina set up the *Mémoires Partagées*<sup>52</sup> project in July 2012. Starting from different themes, Ina asks users to submit their home movies. The period or recording format is of little importance – what matters is the scope of the images and their contribution to the nation's heritage.<sup>53</sup>

### Interacting with heritage materials

*Interactives* are media productions with a dominant audio-visual component that use the World Wide Web and its networked functionalities to invoke user responses and participation. These in turn affect the content, aesthetic and/or functionality of the productions. Interactives are interesting because they raise complex questions about the preservation of new media-content. They also offer compelling examples of reusing existing moving images in a multimedia context, while building a new narrative. Interfaces can be as deceptively simple as a *scrollytelling* narrative, as explored in The New York Times' *Snowfall* article,<sup>54</sup> or the NFB's *The Last Hunt*<sup>55</sup>, or as media-rich as JFK Presidential Library's *Clouds over Cuba*<sup>56</sup> or the elaborate political documentary game *Fort McMoney*<sup>57</sup>, a co-production from the National Film Board Canada and ARTE. These specific examples illustrate how interactives are not merely a preservation challenge for archives but also present us with new ways to present archival assets.

*Interactives* present a range of challenges as archival materials:<sup>58</sup>

1. Traditional media categories used to function as boundaries between archival institutions and made it possible for them to each develop their respective collections. Interactives create **convergence** at the levels of genre, technology, production context and cultural practice. Which means that these boundaries are now increasingly being obscured;
2. Interactives exist by virtue of the links they create between machines and human actors and have therefore a **relational nature**: Human and technological agents provide the input

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<sup>51</sup> <http://www.amateurfilmplatform.nl/en> <accessed May 15, 2014>

<sup>52</sup> <http://www.ina.fr/themes/memoires-partagees/> <accessed May 15, 2014>

<sup>53</sup> Bagnoli, "The Experience of Ina 'Mémoires Partagées', the French Audiovisual Heritage."

<sup>54</sup> Gloerich, "NYTimes' Snow Fall as the Future of Online Journalism?"

<sup>55</sup> <http://www.doclab.org/2013/the-last-hunt/> For an extensive list of journalism stories applying this technique / aesthetic, see: [https://docs.google.com/spreadsheet/lv?key=0AnWYxsUNHS4FdGYVMnpkdGdTNTU0RS1SXzktcnZwRWc&usp=doclist\\_api](https://docs.google.com/spreadsheet/lv?key=0AnWYxsUNHS4FdGYVMnpkdGdTNTU0RS1SXzktcnZwRWc&usp=doclist_api)

<sup>56</sup> <http://cloudsovercuba.com>

<sup>57</sup> <http://fortmcmoney.com>

<sup>58</sup> de Vos, "Archiving Interactive Media."

for **cybernetic feedback-loops**. Every time you see them, the input is different, which means that the output is short-lived.

3. Interactives depend on **particular hard- and software**. Traditional media also depend on a specific technology for distribution. The amount of functions that interactives can draw on (from GPS and webcams to touch screens and augmented reality) and the speed at which these functions change, make it difficult to think of ways to represent this type of productions in the future.<sup>59</sup>

### Moving images in App experiences

Interactive experiences, with newly created or archival materials, happen at the cusp of technology. In many instances, local installations or existing browser technology can be enough to provide this experience. In some cases, the experience for history can be bound and wrapped up in a native application that users can take with them everywhere. The advantages are that users needn't necessarily use streaming but can download heavy media upfront.

For media companies, there can be a possibility to monetise the experience they built – for example with paid-for historical apps such as Timeline WW1<sup>60</sup> and Timeline WW2,<sup>61</sup> made with *British Pathé* materials. The New York Public Library started back in 2011 to combine materials from its text collections with an inviting user experience and audiovisual sources that guide the reader through historical topics in a magazine catered for the iPad.<sup>62</sup> Other apps have the ability to make use of GPS to guide the reader / viewer through historical landscapes, such as the Manchester Time Machine, launched in 2012. It uses rare historical film from the North West Film Archive to take you back to exactly the same location to experience the scene from the same viewpoint.<sup>63</sup>

### Users Interacting with History

Where interaction is involved, the lines between mobile and web applications have become all too thin. Historypin is a project of *We Are What We Do*<sup>64</sup>, a non-profit UK community interest company working to multiply the positive effects of local social capital through community engagement projects. Historypin<sup>65</sup> is a global community collaborating around history, with more than 50,000 users and 1,500 institutions contributing images, sounds and and videos relating to local history and heritage. The geo-tagged media assets are plotted on maps, and can be associated with "mysteries", collaborative exercises in which users are encouraged to fill in missing geo coordinates or tags. The platform is being used as a repository for geo-tagged assets and as a crowdsourcing tool within the European projects *Europeana Creative*, *Europeana Awareness*, *Europeana Sounds*, *Europeana Food & Drink* and *Europeana Version 3* and by numerous national projects within the United Kingdom, United States and Japan. The *Europeana Creative* and *Sounds* projects, in particular, are poised to deliver far more playable media files to the platform, currently dominated by historic photographs.

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<sup>59</sup> The oldest examples of which, early digital works by Andy Warhol were recently unearthed by the Carnegie Mellon Computer ClubStinson, "An Amazing Discovery: Andy Warhol's Groundbreaking Computer Art."

<sup>60</sup> <http://timelineww1.com/> <accessed May 15, 2014>

<sup>61</sup> <http://timelineww2.com/> <accessed May 15, 2014>

<sup>62</sup> <http://exhibitions.nypl.org/bibliom/> <accessed May 15, 2014>

<sup>63</sup> <http://www.nwfa.mmu.ac.uk/mcrtimemachine4.html> <accessed May 15, 2014>

<sup>64</sup> <http://wearewhatwedo.org>

<sup>65</sup> <http://historypin.com> <accessed May 15, 2014>

### Offline projects for AV heritage engagement

The *Movies and Memories* project<sup>66</sup> staged a series of events and activities taking place over twelve months, using SASE's collection of archive film to stimulate memories, stories, reminiscences and oral histories. The project's activities focused on the older generation who have a strong connection with the region's past and whose memories are at risk of disappearing if not shared and recorded now. Started in the Summer of 2012, volunteers and elderly groups in the communities of Worthing, Shoreham-by-Sea, Littlehampton and Bognor Regis became involved in activities, including:

- Interactive film screenings and reminiscence sessions;
- Local history workshops and archive open days;
- Oral history training days for volunteers ;
- Oral history recordings with community members;

Residents were invited to come and see locally-made films taken from home movies, newsreels and cine society films of everyday life from the 1930s to the 1960s, many of which had never been made available to the public before. They were asked to tell their memories in oral history interviews or taught how to record an oral histories themselves. The project ended in Summer 2013 and the project results were made available on DVD.

### Institutional portals

In May, 2010 the Lithuanian Central State Archive started implementing a 36-months project called Lithuanian documentaries on the Internet (e-Cinema). The Archive received of 9,41 million Litass for this project from EU Structural Funds. The objective of the project is the preservation of Lithuanian documentary heritage by digitisation as well as its accessibility for everyone via the Internet. The objective of the project is the preservation of Lithuanian documentary heritage: 1000 titles of Lithuanian documentaries, created in the period between 1919 and 196. Both national and foreign web users may view digitised Lithuanian documentary films online as well as order digital copies of movies. Film descriptions are provided both in Lithuanian and English on the E-Kinas portal<sup>67</sup>.

The association Memoriav is the national network for preservation of and access to the audiovisual heritage of Switzerland. Memoriav initiates, supports and follows preservation projects in the four domains photo, audio/radio, film and video/tv. The association is committed to ensure that preservation goes along with documentation and description and that the collections are made publicly accessible. Therefore, Memoriav develops and operates since 2000 the online platform Memobase, which allows retrieval and access to audiovisual heritage.

Memobase increasingly provides direct online consultation of the digitized audiovisual heritage. This consultation can be in a direct online access or over a so-called Memobase+ station. The Memobase+ stations are secure workstations located in over 50 public libraries and archives to ensure the legal requirements of the documents such as copyright. Memobase is an attractive, intuitive and multilingual platform, which allows cross-disciplinary researches. The current beta version provides access to over 85,000 audiovisual documents from 13 institutions in high quality.

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<sup>66</sup> <https://moviesandmemories.brighton.ac.uk/> <accessed May 15, 2014>

<sup>67</sup> <http://www.e-kinas.lt/> <accessed May 15, 2014>

With Memobase, the documentation and aggregation of the audiovisual heritage should be encouraged. The platform simplifies the use of audiovisual documents in the areas of education, teaching and research. In addition, Memobase increases the awareness of the immaterial (cultural, historical, political, documentary) and material value of the audiovisual heritage and aspires its recognition as a part of our historical tradition.

In December 2013, EYE released about 150 complete films from its collection on EYE's own portal on the Open Images website<sup>68</sup>. In addition to being viewable there, the films are also freely available for reuse - for example on Wikipedia or in new creative works. The available films include a series of early American films, a dozen newsreel films, and a series of cityscape films made by the film pioneer Willy Mullens. Open Images is an open media platform that offers access to audiovisual collections that can easily be reused or remixed. Films from the EYE collection can already be viewed on various websites, but on Open Images, the museum offers users the ability to download the material, including permission to reuse it. The collection that EYE makes available on this portal will grow in the coming years. These films have been digitized as part of the *Images for the Future* programme.

In Denmark, DR was partner in the Dansk Kulturarv,<sup>69</sup> a website and social media-initiative offering a common entrance to digitized cultural heritage in Denmark. The project is a co-operation between the main national cultural institutions and as such a resource in broadcast, movies, art and national archives. Visitors will find radio and television from the beginning of broadcast alongside Danish cinema and art from the national gallery thematically disseminated within a common frame. Beside the theme-exhibitions and activity in social media, users have free access to the digitized resources and - in some cases - to sharing and downloading. The strategic aim of the project is to present Danish cultural heritage as entertaining, interesting and relevant for the users in a contemporary context – and to inspire interactivity around this common treasure. The project welcomes international users, although the site is mediated in Danish only.

### Searching for Heritage

The German National Library of Science and Technology (TIB) is one of the largest specialized libraries worldwide. TIB collects digital audiovisual media (AV-media) like computer visualizations, explanatory images, simulations, experiments, interviews and recordings of lectures and conferences. TIB also holds a historical film collection of almost 11,500 research films, university teaching films and documentaries, some of which date back to the 1910s (about 60 % digitised). In collaboration with the Hasso-Plattner-Institut (HPI), the University Centre of Excellence in Systems Engineering affiliated to the University of Potsdam, the TIB developed a web-based platform for audiovisual media. The AV portal<sup>70</sup> optimises access to and the use of scientific films from the fields of engineering and science. The portal integrates new methods for searching, enabled by an automated video analysis with scene, speech, text and image recognition. The search results are connected to new knowledge by linking the data semantically and by applying:

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<sup>68</sup> <http://eye.openbeelden.nl> <accessed May 15, 2014>

<sup>69</sup> <http://www.danskkulturarv.dk> <accessed May 15, 2014>

<sup>70</sup> <http://www.tib-hannover.de/en/services/competence-centre-for-non-textual-materials/av-portal/>

- Scene recognition: a visual table of contents provides a quick overview of the video content, facilitating access to particular segments.
- Speech and text recognition: both the spoken word and lettering in the video (for example in slides) are automatically recognised. The search term is highlighted, enabling navigation within the video.
- Image recognition: based on visual features in the video (such as colour distribution), the system automatically recognises whether it is a lecture, an interview or an experiment.
- Semantic search: by adding semantic information gained from video analysis to the data, explorative navigation of the stock can be performed, enabling connections between audiovisual media.

### **Making use of what's out there: Archives using YouTube**

Italy's Cinecittá Luce possesses more than 100,000 films dating back to 1927. As of 2012, those 100,000 films underwent digitisation and have been making their way to Cinecittá Luce's official YouTube channel<sup>71</sup>, which offers, to roughly translate the Italian on the page, "seventy years of Italian history and social life from the twenties to the nineties," the "priceless patrimony of our visual memory." So far, the channel has broken the films into seven categories: art, science and literature; the Second World War; movie stars and the catwalk; protagonists of the twentieth century; the "dust archive"; material related to Cinecittá Luce's current film festivals; and La Dolce Vita.<sup>72</sup> Newsreel producers British Pathé uploaded their entire collection of moving images to YouTube in April 2014. The archive of 3,500 hours of footage (85,000 items) was digitised in 2002 thanks in part to a grant from the National Lottery, and is now freely accessible to anyone around the world for free.<sup>73</sup>

Besides their platform *TVR plus*, the Romanian Television Archive is curating since July 2013 an official YouTube channel.<sup>74</sup> And as of May 2014, the Netherlands Film Institute EYE also present hundreds of films from its collection on YouTube. As a start, EYE will publish around 400 public domain and orphan films on its channel. After this start, EYE will upload new films every week. The online collection contains some of the earliest Dutch films; feature films from the first decades of the previous century; and films made by the Haghefilm company, one of the largest Dutch production companies at the time, which was led by Willy Mullens. All films are accompanied by credits and a summary.

### **VOD platforms looking back**

US video-on-demand platforms have turned into new kinds of video rental houses. Powerhouses such as Hulu and Netflix are slowly setting foot on the European market. Most broadcasters around the content have set up catch-up services for their daily programming – the BBC's iPlayer was the earliest and internationally most well-known example. From the archive's perspective, these platforms have limited use: because of storage, bandwidth and in-house regulations, most content is taken offline again within a range between 7 and 30 days. Spanish broadcaster RTVE actively employed its popular *Alacarta* platform to serve older, heritage collections from Spanish film organisation *Filmoteca*. In

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<sup>71</sup> [www.youtube.com/user/CinecittaLuce/](http://www.youtube.com/user/CinecittaLuce/)

<sup>72</sup> Marshall, "Cinecittá Luce and Google to Bring Italy's Largest Film Archive to YouTube."

<sup>73</sup> Sparkes, "British Pathé Uploads 85,000 Historic Films to YouTube."

<sup>74</sup> <https://www.youtube.com/channel/UCnCYIhudgWq6biY4CjLuavQ>

particular, it provides access to the No-Do archive, a state-controlled series of cinema newsreels produced between 1943 and 1981.<sup>75</sup> The newsreel collection is an important asset of RTVE and often mined for nostalgia programmes.<sup>76</sup>

### **New archives and future platforms**

Archives spend a lot of money and effort to digitise and archive precious collections in order to preserve them for the next generations. But preservation as a goal in itself does no longer satisfy us: we want our collections to be seen, used, re used, shared and cherished. Not by one audience but by many. But how can you seduce and convince different target groups to use archives, knowing that they weren't built to serve those audiences in the first place? In Belgium, VIAA was founded in December 2012 by the Flemish Government to act as a service provider in digitisation and sustainable storage of cultural heritage, with a focus on the audiovisual. Its third big aim is to make the digital heritage material available and accessible, initially to educational institutions, public libraries and research institutions. These are target groups with different expectations, needs and challenges. The answer to the many challenges lay in a sustained customer oriented approach. VIAA therefore organised living labs with surveys, co-creation sessions, pilot testing and agile development. Educational users were the first focus and the starting question was: what do teachers want? We live in a digital world filled with images, film and sound. But how often do teachers and lecturers use this type of media in the classroom? When they do, what do they use them for?

In Norway, the Norwegian Broadcasting Corporation (NRK) is legally required to provide access to the AV heritage for all, with guidance from the Ministry of Culture. The NRK media player contains both linear programming and historical content from the archive. The idea is that archival material becomes more visible this way and that there will be a good synergy for both the new and the older material. NRK has entered into an agreement with rights organizations, which enables them to publish all in house productions broadcasted before 1997. Already there are about 3000 TV-programs published from the historical archive. The broadcaster is working on solutions that can improve its workflows towards making the entire archive accessible and enhances user access to its audiovisual heritage.

## **5 Remaining issues / barriers**

### **Paragraph Status of Audiovisual Collections Online**

International and national collections are by far the focus of the responding institutions. Thereby it is indicated that the main part of the materials is created after 1980. Digitization is progressing, but the subsequent increase of (freely) accessible audiovisual collections online is lagging behind. If we translate this difference to statements on benefits and barriers of publishing AV collections online and more specifically on EUscreenXL there is much agreement amongst the respondents about the lack of funds to, on the one hand digitize materials and, on the other hand make them available online. This includes the funding of technical resources like bandwidth, hardware etc. Technical knowledge or managerial priorities are not identified as barriers. However 56,3 per cent agrees that legal IP-

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<sup>75</sup> <http://www.rtve.es/filmoteca/> <accessed May 15, 2014>

<sup>76</sup> "No-Do."

restrictions are a serious barrier (agreement is most clear between memory institutions, 12 out of 18 respondents).

Considering the results of the survey based on the top six statements with the highest percentage of full agreement, for the majority of respondents, the top four perceived *benefits* in contributing content to the EUscreenXL project would appear to be:

1. The contribution to public knowledge
2. Making national history more visible to an international audience
3. Making our archive materials available online is a great way to create interaction with our users
4. Creating greater visibility for the respondent's organisation

These are benefits that correspond on a elementary level with missions of public organizations like memory institutions and public broadcasters. In terms of the why putting collections online there is common agreement. But in the how to do so, it gets more diffuse. On the one hand IP is a restriction, on the other for many public organisations IP is a means of monetising their collections to create funding for digitization.

In 'Assessing the Audiovisual Archive Market'<sup>77</sup> Peter Kaufman is assuming there is something like a common 'audiovisual archive market'. He does not make a distinction between the organizations forming this market. But to understand what will enable this broad domain to not only make the shift towards the digital but to make an equal shift towards the online we have to understand the nuanced position of individual organization rotating along a set of key characteristic. The combination of mission (public or not), (sufficiently) publicly funded or upholding private funding strategies, and the control they have over the rights of their holdings position them on this supposed common market.

Understanding their position leads to understanding why some barriers and benefits are shared and other show a diffuse response. Many organizations are burdened by copyright in terms of the cost of clearing them, but on the opposite side many organizations use copyright as a business rule to create funding for their key activities. At this stage it enables many public organizations to generate income for their digitization and access activities. This dialectic interest in IP keeps returning and, although the benefits and effect on public goals and user interaction are acknowledged, it can be a hard choice for institutions to fully commit to public mission collaborative activities like EUscreenXL and to commit to making a huge part of their collections freely accessible.

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<sup>77</sup> Kaufman, *Assessing the Audiovisual Archive Market*.

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## C AWARENESS

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The archive partners present in EUscreenXL are all either public institutions or public service media providers. They find themselves in turbulent environments – trying to answer to increasing demands for low-cost or free access to their holdings from *netizens* on the one hand while trying to keep increase income out of non-traditional sources as government funding, an important influx both for European media production and cultural heritage institutions, dries up. This is the ultimate crux for cultural collection holders at this specific point in time. It shares the uncertainty of the media industry at large, which, as Amanda Lotz writes, is traditionally rooted in a simple maxim: “Nobody knows”. Nobody knows, “because of the fickleness of audiences when it comes to creative and entertainment goods.”<sup>78</sup> Nobody knows, and thus “you can’t test or engineer your way to a hit with any certainty.”<sup>79</sup>

This uncertainty is matched on the production side with overproduction: to make up for the 10-20% of things that do work, 80% of productions is expected not to – it’s just that nobody can predict where the winning part ends up. With the diversification of media outlets, and the diminishing of advertising revenue that this brought along, media organisations need all the creativity they need to keep their heads above water. Meanwhile, audiences are becoming ever more demanding. Rightfully so, one could say. Audiences want access – to all of the collections, all of the time. When the Netherlands Institute for Sound and Vision recently released a free companion to history series *Na de Bevrijding*,<sup>80</sup> enthusiastic participants’ complaints in the user studies pointed to the ‘lack of content’ – while 80 hours of never-before seen archival materials were available for unlimited viewing through the webapp.

### 1 The business challenge to public access to archive contents

Archives and broadcasters are investing in on-line services that provide selective access to their own archive material, as outlined in Chapter 2. In some instances, the popularity of online catch up services seems to be slowing to a halt: Belgian Dutch-language broadcaster VRT reported a small decline in the consumption of its catch up service use.<sup>81</sup> Although more and more archival contents are available through online portals, many of them are reluctant to ‘lease’ this material to other sites for public access. Brand managers and content strategists take great care to massage the right combination of SEO tools around the formats for their materials. Programme managers rely on strictly controlled impact numbers and web analytics to analyse the return-on-investment of web initiatives.

On EUscreen, content providers have found it challenging to contribute popular program forms such as drama, music (pop, traditional, and classical), and sport. Research conducted within EUscreen<sup>82</sup> pointed to the fact that, in most cases, copyright holders allowed users to create playlists and add

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<sup>78</sup> Lotz, “What Old Media Can Teach New Media.”

<sup>79</sup> Ibid.

<sup>80</sup> <http://mw2014.museumsandtheweb.com/bow/na-de-bevrijding-xl/> <accessed May 15, 2014>

<sup>81</sup> “Eerste Daling Uitgesteld Kijken Bij VRT.”

<sup>82</sup> Marttila and Hyypä, *Review of IPR Limitations and Recommendations*.

comments. Only few allowed material to be downloaded and remixed in derivative works. Content holders are keen to keep a grip and control over the assets they care for. While much good can happen once this control is relinquished. The Netherlands Institute for Sound and Vision's open video platform Open Images has seen an annual increase in the reuse and reach of Open Images since its launch in 2009. Not only the impact generated on the Open Images platform itself increases - the external reuse of material available through Open Images does too. The Sound and Vision videos on Open Images are also available on Wikimedia Commons and through Europeana. In December 2011 these files were reused in almost 1,000 articles on Wikipedia – a number that in December 2012 had increased to nearly 1,600. In the whole of 2011 these articles generated almost 19,000,000 page views. In 2012 this more than doubled to nearly 40,000,000.<sup>83</sup> Besides Wikimedia projects, the data and videos from Open Images are also used more and more for innovative applications. The API from Open Images makes it possible for computers to process the data from the openly available collections and received 169,000 requests in 2012. Creative developers have become even more aware of the existence of Open Images as a great basis for new apps since the *Open Culture Data* initiative<sup>84</sup> started in 2011. The impact of Open Images shows that even with a relatively modest open content set, substantial impact can be obtained.

In his review of public service media in a multiplatform world, Roberto Suárez Candel indicates that European public broadcasters “have done a significant effort in the last years in order to upgrade and develop their offer and become a reference for the citizens”.<sup>85</sup> The technological side of this implementation is not seen as a burden – broadcasters are well capable of providing stable and reliable online services. The distribution of these, through various broadband services, is less stable across the continent. The financial side of these offerings is also less stable. Little money is spent on original programming for the web. What the author points out as common trends across the member states, is the interest in offering complementary content on second screens and through connected TVs. From the interviews with channel managers, Candel repeats the fear of losing control when for instance making use of social media for extra content. The report is an interesting piece of research that makes little or no mention of archival content – although it does mention that the value of operator's archives is increasing because of the relevance gained by online extra materials,<sup>86</sup> it makes few references to archival material holding their own value for public access.

## 2 Access in the context of Europeana

In this chapter, various aspects of open access in relation to the audiovisual archives and Europeana will be addressed. We will try to define the term, give a brief history of Europeana and where it currently stands towards open access, and finally discuss a number of risks and rewards involved in open metadata and content re-use. First of all, what does 'Open Access' actually mean? The term is in a variety of contexts used in different ways. In academic publishing there is for example a distinction between 'Green' and 'Gold' open access and various institutions and publishers have defined their

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<sup>83</sup> Wolda, “Impact Metrics: Increase in Reach and Reuse of Open Images.”

<sup>84</sup> <http://www.opencultuurdata.nl/category/apps/> <accessed May 15, 2014>

<sup>85</sup> Suárez Candel, *Adapting Public Service to the Multiplatform Scenario: Challenges, Opportunities and Risks*, 74.

<sup>86</sup> *Ibid.*, 42.

own terms of use when speaking about open access. It is therefore important that when the European cultural heritage sector speaks about the term, the same definition is used.

The Europeana Foundation has worked since its existence on defining and standardising the terminology. It borrows heavily from the 'Open Definition' as defined by the Open Knowledge Foundation in 2007 which states that:

*The Open Definition sets out principles that define "openness" in relation to data and content. It makes precise the meaning of "open" in the terms "open data" and "open content" and thereby ensures interoperability between different pools of open material. It can be summed up in the statement that: "A piece of data or content is open if anyone is free to use, reuse, and redistribute it — subject only, at most, to the requirement to attribute and/or share-alike.*

### Metadata vs. Content

When it comes to licensing 'data', we must know what we exactly license. Europeana distinguishes three layers of data, which are:

- **Content** - A physical or Digital Object that is part of Europe's cultural and/or scientific heritage, typically held by a Data Provider.
- **Previews** - A reduced size or length audio and/or visual representation of Content, in the form of one or more images, text files, audio files and/or moving image files.
- **Metadata** - The textual information and hyperlinks that serve to identify, discover, interpret and/or manage Content.

Since September 2012, all metadata that Europeana has collected of over 2300 institutions is available for re-use without any restrictions by waiving away the rights using the Creative Commons Zero Public Domain Dedication (CC0). EUscreen was at the forefront and one of the early adopters in this bold step forward for opening European cultural heritage to wide audiences.<sup>87</sup> Before taking this decision and implementing it, a long consultation process was held with different stakeholders from a variety of domains.<sup>88</sup> After both consulting with representatives from the cultural heritage institutes during workshops and meetings, as well as the end-user by surveys, it was concluded that *"the ability to re-use information found on Europeana consistently comes up as the number one priority for end users"*<sup>89</sup>

Before that data, all of the metadata in Europeana was licensed for re-use with a non-commercial restriction (CC-BY-NC) but mainly due to the fact that this license made the metadata non-interoperable this turned out to be not ideal. By applying the CC0 waiver all data can be used by anyone without any restrictions. CC0 is used for all the metadata in Europeana without any exceptions (although this might change in the future for rich descriptions or translations). For the previews and the content this is not the case. The data provider makes a rights statement in the metadata about the content and preview. Europeana offers the data providers 12 different rights statements,<sup>90</sup> which are used in the metadata to communicate the legal status of the digitised content it links to. Only a few of

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<sup>87</sup> Verbruggen, "Television Archives Join Linked Open Data Movement."

<sup>88</sup> <http://pro.europeana.eu/web/europeana-project/newagreement-consultation/>

<sup>89</sup> Verwayen, Arnoldus, and Kaufman, *The Problem of the Yellow Milkmaid. A Business Model Perspective on Open Metadata*.

<sup>90</sup> <http://pro.europeana.eu/available-rights-statements>

these can be considered 'open' such as the Public Domain mark and the Creative Commons Attribution and Share-Alike license.

### Defining the barriers towards open access

Broadly speaking the legal barriers for institutions can be separated in three categories:

1. We do not own these rights and can therefore not do this
2. We do not have the resources or knowledge to find out who own the rights
3. We own the rights but have our reasons to not open up this material

As shown in this paper and by previous research,<sup>91</sup> it is very often not possible for cultural institutions to 'open up' a piece of content by applying an open license because of the variety of issues with intellectual property rights. It is also incredibly time consuming to clear rights of an AV-object. In the survey Marttila and Hyypä did it was claimed that:

*In order to map the work efforts used for rights clearance, the Content Providers [CPs] were asked to estimate how many hours it approximately takes to clear rights for 50 video items, and to provide a breakdown in steps that the CP follows. As expected, the answers varied a lot due to the different situations each provider's organization has. However the answers shed light on the complex process and procedures the CPs have to follow, and especially how time consuming the rights clearance is without pre-existing (global) agreements. For example, one CP reported that it would take approximately 120 hours for two people to clear 50 items; another CP estimated that it would take 75 hours for 3 people. On average, the CPs approximated that the selection and clearance process for 50 items would take them 10-20 hours. If CP holds the rights to the video content it can take as little as 4 hours.<sup>92</sup>*

This also shows how time consuming it is to clear the rights for an audiovisual object. This is mainly due to unclear agreements and legal issues that become even more complex once the object can be viewed in a pan-European environment like that of EUscreenXL. But even when cultural heritage institutions do own the rights of the material, or the material is in the public domain (not very common yet in the audiovisual domain), institutions often decide to keep the digitised content locked away from a wider audience. Of the more than 600.000 audiovisual objects that can be found in the Europeana database, less than 5000 (0.8%) are actually licensed in a way it fits the open definition, where other file types score much higher (Image 15.3% and Text 38.1%). In the following chapter, we will therefore address a number of reasons for cultural institutions to adopt an 'Open Unless' policy where the default is open where possible.

### 3 Awareness of mutual benefits

In this chapter we take a closer look at the benefits of open access, both for the cultural institutions, as well as the end-users.

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<sup>91</sup> Marttila and Hyypä, *Review of IPR Limitations and Recommendations*.

<sup>92</sup> *Ibid.*, 9.

## 1. Public mission and wider audience

Most audiovisual archives are public institutions. This means they are publicly funded by taxes and have the duty to serve the public. This is also reflected in the mission statements that can be found of these institutions. Besides preservation, giving access to a wider audience is a key part of the objectives of the institutions. By making the audiovisual material openly available, the content can be used in many other platforms in for example education and research, but also Wikipedia. By doing this the institution can not only reach a far wider audience, it also allows others to bring the material to the platforms where the audience can actually be found such as Wikipedia, mobile applications and education platforms. One of the conditions of the Open Definition described earlier is to allow different datasets to be interoperable. By using a non-open license such as one that prohibits commercial re-use the data can no longer be combined with other datasets, as this will affect their licensing status. One of the great potentials of online cultural collections is the easy in which they can be connected and combined in order to tell new stories about history.

A good example of how this can work out is the earlier mentioned Europeana 1914-1918 project. This project around World War One collects data from a variety of institutions all over Europe and also organised a series of events to collect user-generated content. By combining this material it allowed the users to explore the War from many different perspectives. French viewpoints can be seen next to German stories and memorabilia. In this project the European Film Gateway (EFG) was also heavily involved and it digitised and provided a number of WW1 related to the project.

### User groups

Public broadcasting history, newsreels and educational film collections are all of wide interest to the public at large. The moving images that non-cinematic formats have recorded, give, just like their wondrous nephews on the cinema screen, unique glimpses in life as it was in times past. They are therefor a source of wonder, bemusement and learning for anyone with a historical frame of reference. For creative industries, footage is fertile soil for new productions; be they straight a-to-b narratives, interactive stories, web clips or exploratory in-app experiences. For scholars, they are a frame of reference and a unique corpus to study. This is a need that is increasingly recognised by audiovisual collections – the prime example of which is news recordings. In 1977, librarian Marion Stokes began recording and safeguarding local and cable news – resulting in a collection of 40.000 VHS tapes, going up to 2012.<sup>93</sup> Paul Simpson started a second US-based news collection at the Vanderbilt Libraries on August 5, 1968, and recordings have been made every day since. Its operations *are sustained by approximately 117 institutional sponsors that pay an annual fee, based on the size of the institution. The annual fees range from \$1,000 to \$3,500 for the higher education category, based on the number of FTE's of the institution. The number of sponsors has remained relatively stable over the past decade. The sponsors are entitled to stream digital content to their faculty and students on the campus. This service is not available to individual borrowers. Thus far, only NBC and CNN have been willing to allow streaming of their content to institutional sponsors.*<sup>94</sup>

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<sup>93</sup> Kessler, "The Incredible Story Of Marion Stokes, Who Single-Handedly Taped 35 Years Of TV News."

<sup>94</sup> Marcum, *Vanderbilt Television News Archive*.

Google Scholar listed nearly one thousand scholarly articles that cite or mention the VTNA in January 2014 – a number that can be expected to grow since its public availability through the Internet Archive's TV News Archive.<sup>95</sup> Audiovisual collections can *form a rich basis for various types of scholarly research in the humanities and social sciences "such as history, literature, linguistics, political science, sociology, communication studies and cultural studies"*<sup>96</sup> Various projects have been attempting to improve the possibilities for finding, exploring and analysing this specific type of raw research data, although, as Richard Wright puts it, "The output from broadcasting isn't generally seen as a scholarly resource. [... It] isn't so obvious that every area of teaching and research, from nursing to quantum physics, could use broadcast content that was relevant to those subjects." *What makes audiovisual content difficult, is that it is unstructured: unlike written text, it "typically lacks representation formats that can be easily scored or collated"*<sup>97</sup> And *unlike written text, academics often lack the tools to study and reference the source materials. In response to the 2011 Jisc report Film and Sound in Higher and Further Education,*<sup>98</sup> the British Universities Film & Video Council (BUFVC) set out to produce guidelines for the referencing of moving images and sound. The report found that despite the exponential increase in the use of audiovisual material in teaching, learning and research in higher and further education, existing guidelines are often insufficient as they are based on standards developed for the written word.<sup>99</sup>

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<sup>95</sup> <https://archive.org/details/tv> <accessed May 15, 2014>

<sup>96</sup> de Jong, Ordeman, and Scagliola, "Audio-Visual Collections and the User Needs of Scholars in the Humanities."

<sup>97</sup> Ibid.

<sup>98</sup> Kaufman and Gerhardt, *Film and Sound in Higher and Further Education*.

<sup>99</sup> An interactive version of the guidelines is available to download from the BUFVC website: <http://bufvc.ac.uk/avcitation/guidelines>

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## D LEGAL ENVIRONMENT

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### 1 Pan-European framework of IPR legislation

Copyright law structures many of the relationships between users, creators, and distributors of copyrighted content. Copyright law should, ideally, represent a balance between the legitimate interests of the different entities working with copyrighted materials.<sup>100</sup> The clearance of rights for audiovisual materials, and television programming in particular, can be both costly and time consuming. From an intellectual property point of view, audiovisual heritage materials are probably the hardest to publish online. Rights for programme materials are varied and complex, vary across different European countries and vary widely within each country.<sup>101</sup> The problem becomes even more acute when clearing rights for use on the Internet. Even in those instances where rights had been cleared on programming forms for (re-)use on television, they often have to be negotiated again for the internet. In some cases, rights holders cannot be identified or, if they can be identified, they cannot be located.

Archives participating in EUscreenXL deal with IPR and other rights issues on several levels, which makes selecting audiovisual archival content to showcase publicly online a complex undertaking. The differences in national legislations make an international exchange of audiovisual material even harder. Archival agreements for open educational use that exist in certain countries are limited to that territory only. One such example is the type of online access Hungarian archive NAVA provides to educational institutions. Scandinavian and UK partners are bound by geo-blocking regulations to make their national audiovisual histories available online to fellow Europeans. The EUscreen project has demonstrated that it is possible to clear the rights for online access for thousands of hours of in-copyright content without undue expense. In many cases, time was invested to track rights holders and to seek permission for providing access through the EUscreen portal. Rights have been cleared to a large range of factual material, covering news, current affairs, and documentaries. Due to a lack of harmonization of legislation across the European Union, some countries will insist that material cleared for copyright restrictions under their national law must also be 'published' (i.e., 'streamed' in the case of audiovisual materials on the Internet) within its own borders. To achieve this, EUscreenXL set up a flexible technical architecture that supports streaming content from a central website server, provided by the technical partner Noterik, while simultaneously allowing material to be located physically (i.e., to have its streaming server) in any of the partner locations.

EUscreenXL works with a varied consortium of stakeholders across the field. Protection of copyright originally had not been in the purposes of European Union. Considering, though, that the functioning of the internal market can be seriously influenced by barriers arising from the regulation of copyright, it was considered appropriate to include copyright within the regulatory policy of European Union.

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<sup>100</sup> Guibault, "Evaluating Directive 2001/29/EC in the Light of the Digital Public Domain," 63.

<sup>101</sup> Marttila and Hyppä, *Review of IPR Limitations and Recommendations*, 3.

## Copyright law

**Directive 93/83/EEC** of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission. In the preamble of this directive—which aims at facilitating the cross border transmission of audiovisual programmes such as, particularly broadcasting via satellite and retransmission by cable—it is provided that the differences between national rules of copyright should not result in the creation of barriers to the cross-border broadcasting of programmes.<sup>102</sup> Therefore we can say that this directive is the one by which the EU laid down the basis of a harmonised regulation of copyright law.

**Directive 2001/29/EC** of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (TBE)

**Directive 2004/48/EC** OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the enforcement of intellectual property rights (TBE)

**Directive 2012/28/EU** of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (TBE)

**DIRECTIVE 2014/26/EU** OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market

## Media law – separate acts for AV archives, deposit

**DIRECTIVE 2010/13/EU** OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) means the main Pan-European regulation on media but it does not concern the work of audiovisual archives. (TBE)

## Work done in neighbouring projects

Europeana Awareness<sup>103</sup> is a Best-Practice Network led by the Europeana Foundation. It's been designed to publicize Europeana to users, policy makers, politicians and cultural heritage organizations in every Member State. In June 2013 it held its second Europeana Licensing workshop as part of research undertaken for the Europeana Awareness project by the Bibliothèque nationale de Luxembourg, Kennisland and the Institute for Information Law (IvIR). Their research focuses on possible international licensing models for digital heritage and the legal framework for cross-border licensing of copyright-protected works in Europe. In practice, this means that it explored the conditions under which works contained in the collections of cultural heritage institutions could be regulated on a cross-border basis in the context of Europeana.

The workshop aimed at gathering information to map the practice and implementation of the [Orphan Works Directive](#)<sup>104</sup> and possible alternative contractual arrangements (such as those based on the

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<sup>102</sup> "(5) Whereas, however, the achievement of these objectives in respect of cross-border satellite broadcasting and the cable retransmission of programmes from other Member States is currently still obstructed by a series of differences between national rules of copyright and some degree of legal uncertainty; whereas this means that holders of rights are exposed to the threat of seeing their works exploited without payment of remuneration or that the individual holders of exclusive rights in various Member States block the exploitation of their rights; whereas the legal uncertainty in particular constitutes a direct obstacle in the free circulation of programmes within the Community;" (preamble of Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission)

<sup>103</sup> [pro.europeana.eu/web/europeana-awareness](http://pro.europeana.eu/web/europeana-awareness)

<sup>104</sup> [ec.europa.eu/internal\\_market/copyright/orphan\\_works/index\\_en.htm](http://ec.europa.eu/internal_market/copyright/orphan_works/index_en.htm)

Memorandum of Understanding on Out-of-Commerce Works<sup>105</sup>). It complements a questionnaire to the European member states about the creation of an international database of Orphan Works. Member States will have to pass legislation implementing the Directive by October 2014. As far as the database is concerned, they will have to play the role of “interface” between beneficiary institutions (libraries etc) and the office for the harmonisation of the internal market (OHIM), an EU agency with responsibility in the area of IPR, based in Alicante, Spain. The focus of this process is to identify possible loopholes in the cross-border access and re-use of works that is caused by differing national arrangements regarding categories of works, beneficiaries, scope and conditions of use, etc.<sup>106</sup>

Cross-border access and use depend not only on a clear legal framework, but also on effective data collection and rights management. Therefore the workshop's first day focused on the practical implementation of data registries, data creation and data exchange processes between the relevant actors. It was interesting to see what kind of organizations work on copyright clearance: e.g. with facilitating rights information management (ARROW<sup>107</sup>) or with developing building blocks for the expression and management of rights and licensing across all content and media types (Linked Content Coalition<sup>108</sup>). While legal issues cannot be easily separated from more administrative issues, day two focused on legal interoperability issues of implementing alternative (contractual) mechanisms.

Issues of intellectual property rights are crucial when providing access to audiovisual collections. As a part of legislation, copyright law still bears some territorial nature – while a Pan-European audiovisual archive touches upon cross-border legal issues. Some kind of harmonization would be necessary to ensure the possibility of publishing and providing access to our audiovisual heritage. The *Memorandum of Understanding on Key Principles on the Digitization and Making Available of Out-of-Commerce Works* is sector-specific: it covers books and journals only. A dialogue between stakeholders is the way forward to facilitate agreements for the digitization of European out-of-commerce cultural material in other sectors—e.g. on audiovisual works—as well.

### **The Licenses for Europe Initiative**

In order to ensure that copyright and licensing stay fit for purpose in this world, the European Commission started a stakeholder dialogue titled *Licenses for Europe*. Its main purpose was to deliver “rapid progress in bringing content online through practical, industry-led solutions.” The initiative held its final plenary session on November 13<sup>th</sup>, 2013 in Brussels.

Participants of the dialogue included representatives from interested parties such as consumer and digital rights organizations – and the topic touches on the lives of many. IT and technology companies, internet service providers, film heritage institutions, broadcasters, public libraries, authors, producers, performers and other copyright right holders in the audiovisual, music, publishing and video game

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<sup>105</sup> [http://europa.eu/rapid/press-release\\_MEMO-11-619\\_en.htm](http://europa.eu/rapid/press-release_MEMO-11-619_en.htm) <accessed May 30, 2014>

<sup>106</sup> To get an idea of the wide variety of copyrights clearance regulations in different European countries, the Public Domain Calculator gives a good overview: <http://outofcopyright.eu/>

<sup>107</sup> <http://arrow-net.eu/> <accessed May 30, 2014>

<sup>108</sup> <http://www.linkedcontentcoalition.org/> <accessed May 30, 2014>

industries all took part. However, as the European Digital Rights Initiative (EDRI) points out,<sup>109</sup> after 10 months of debate, there is little consensus between these different stakeholder groups as to how to make EU copyright fit for the digital age in law and in practice. The final plenary meeting provided an opportunity for the different working groups to report-back to the plenary on their conclusions. The main critique of the EDRI is that in the process, all attention went to establishing relationships between rights holders and platform developers – thus excluding other approaches and larger attempts at a much needed copyright reform. In their words:

*In the current technological environment, copyright affects ordinary citizens and many professionals, such as teachers and cultural heritage professionals, that are not represented by the two industries that Commission's approach suggests are the only legitimate stakeholders. There are user rights at stake in this discussion that are extremely important in fields other than popular culture, in particular in education, but also for political expression and democratic participation.*

At the final meeting, the four thematic working groups were invited to introduce their results and outcomes. Nicola Mazzanti, president of ACE talked about the agreement on principles and procedures between rights holders and European film heritage institutes, pursuing the goal of getting more heritage films online. This statement was signed at the end of the plenary meeting. With this statement, film heritage institutions and film producers now have a clearer agreement on how to go about digitizing, restoring and making available European film heritage without requiring changes in legislation. Nicola Frank from EUScreenXL partner EBU introduced the discussion between public broadcasters and rights holders on freeing up TV archive footage through digitization. Considering that we have to count on a myriad of rights holders, clearing the rights makes the use of such materials highly expensive and time-consuming, so participants agreed to find solutions. James Taylor, communications officer of the SAA introduced in a pledge the audiovisual industry's declaration to improve the identification and discoverability of audiovisual content online. The parties declared to make current standards interoperable and to use them widely, which should help streamline their distribution.

With this final plenary meeting, the Licences for Europe dialogue came to an end. The Commission has followed up more specifically on some of these initiatives, such as the agreement to carry out an ad hoc dialogue on broadcasting archives, where further work will have to be carried out as a result of Licences for Europe. In all cases, the Commission will continue to provide information on the state of implementation of the different initiatives. The Commission is currently working on an Impact Assessment and in this context launched a public consultation on the on-going review.

### **On-going activity on the EU level: orphan works, licenses, consultation**

**Orphan works.** Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works: this directive sets out common rules on the digitization and online display of orphan works. We call a piece of art (like books, newspaper and magazine articles and films) 'orphan' if it is still protected by copyright but its author(s) or other

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<sup>109</sup> <http://www.edri.org/RIP-L4E> <accessed May 30, 2014>

rightholders are not known or cannot be located or contacted to obtain copyright permissions. Orphan works are part of the collections held by European libraries that might remain untouched without common rules to make their digitization and online display legally possible.

**Consultation.** Last December the European Commission has launched a public consultation as part of its on-going efforts to review and modernise EU copyright rules: sent out a public consultation survey about the nature and impact of its activities regarding copyright reform. The consultation invited stakeholders to share their views on areas identified in the Communication on Content in the Digital Single Market (IP/12/1394), i.e. territoriality in the Single Market, harmonization, limitations and exceptions to copyright in the digital age; fragmentation of the EU copyright market; and how to improve the effectiveness and efficiency of enforcement while underpinning its legitimacy in the wider context of copyright reform. Considering that WP5 is working on these topics above we are making (this work still lasts at the moment of submitting this deliverable) an attempt at voicing our thoughts and opinions even though the fact that the current copyright consultation came quite early on in our planned work trajectory.

**Licenses for Europe.** In order to ensure that copyright and licensing stay fit for purpose in this world, the European Commission started a stakeholder dialogue titled Licenses for Europe. Its main purpose was to deliver “rapid progress in bringing content online through practical, industry-led solutions.” Participants of the dialogue included representatives from interested parties such as consumer and digital rights organizations – and the topic touches on the lives of many. IT and technology companies, internet service providers, film heritage institutions, broadcasters, public libraries, authors, producers, performers and other copyright rightholders in the audiovisual, music, publishing and video game industries all took part. However, as the European Digital Rights Initiative (EDRI) points out, after 10 months of debate, there is little consensus between these different stakeholder groups as to how to make EU copyright fit for the digital age in law and in practice. One—actually the most successful—the working groups was the Audiovisual Heritage WG, members of which has signed an agreement on principles and procedures between rights holders and European film heritage institutes, pursuing the goal of getting more heritage films online on the final plenary meeting.

**Study on InfoSoc directive.** The EU revised the frame of copyright harmonization in 2001 with Directive 2001/29/EC of the European Parliament and of the Council (known as InfoSoc directive). At distance of a decade the Commission ordered a study on its application from the De Wolf and Partners Law Firm. The document—which was completed at the end of 2013—is quite fresh therefore at the moment we do not know what kind of action plan will be created based on this study by the Commission.

## 2 National legal frameworks (comparing national legislations to EU legislation)

As we indicated in deliverable 5.1, WP5's research would include a survey among the members. The aim of this survey was to come to an overview of the status quo of adding audiovisual materials to the European cultural commons. We decided to split the survey in two parts: One part focuses on copyright and includes questions that provide input to delineate differences in national legislation and includes national archives acts. The other part covers the awareness issues outlined above. The survey has been sent out at once and clearly indicated that one part is for legal experts, while the other focuses on collections and archival policy.

Based on the results of the survey in a parallel track an inventory was made of the national legislative contexts of which the results are presented in the appendix II.

We had seven participants in the legal survey who received the following answers:

1. Does your organization have a specific (legal) responsibility for collecting and keeping AV materials?

- Yes, we store materials according to a legal deposit 3
- Yes, we store materials according to a domain mandate or written agreement 4
- No, we have no formal responsibility 0
- Don't know / Not sure

According to these answers we can see two typical types of legal responsibility based on EUscreenXL members are collecting and keeping AV materials. Considering the low number of legal respondents we have to deal with answers for the same question from the other part of the survey to collection experts. There 10 respondent said that they store materials according to a legal deposit and 14 answers were on claiming that they work by virtue of domain mandate or agreement. It means that content EUscreen would like to collect and promote is already at 24 archives' service. 24 respondents is quite significant ratio of European archives.

At a relating point we asked if the participant institutions owned rights to their collections. 27 of them answered: partially, where in the specifying we got various answers amounting between 1-90% (of course depending on what kind of institution the respondent is: archive or broadcaster). Only NAVA (Hungary) answered that this partiality is not meant as a quantitative restrictions, but it means that NAVA has the right to give online access to the public (but not for commercial use or anything else). Considering that EUscreenXL's aim is to find the way to providing online access, the Hungarian practice should be seen as best practice.

### **3 Possible solutions & best practices on a national level (Cases)**

#### **Hungary: NAVA**

NAVA constitutes the legal deposit archive of the Hungarian national broadcasters, collecting audiovisual content. Due to the 2004 CXXXVII Act on National Audiovisual Archive the scope of its collection comprises the programmes of the national terrestrial televisions and radios, produced in or relating to Hungary. Also, the comprehensive collection includes any other audiovisual content for processing or storing, facilitating the preservation of audiovisual content as part of the Hungarian cultural heritage. NAVA started its operation as of 1 January 2006.

The preservation of audiovisual material in Hungary was formalised with the passing of the act mentioned above: its 10-11th paragraphs create the system of legal deposit surrendering. NAVA has the right to record legal deposits directly from the broadcasting. If NAVA does not exercise this right the broadcasters are obliged to submit obligatory copies of legal deposit with metadata in 60 days. The scope of the legal deposit: all programmes of public broadcasters and public service programmes (defined in act of broadcasting) of national terrestrial commercial broadcasters (i.e. it includes 3 public service and 2 commercial television channels, plus 3 public service radio channels)

Access to legal deposit: Through its online catalogue NAVA makes metadata and a one-minute extract of every programme available for the public on the Internet. Furthermore it also maintains 'NAVA-points' where the whole legally permissible content of the archive can be viewed online for the purpose of scientific research or personal study within dedicated networks in public libraries, educational institutions, museums, record offices, picture and sound archives across the country. Technically these points have registered IPs with passwords with which they can sign in to the NAVA server, i.e. this access does not mean the violation of copyright since on the premises access is permitted by principle of fair use. This solution is a modern technical way to exceed geographical limits without hurting the integrity of copyright: it provides overseen access within the possibility of cultural and educational purpose exception of copyright restrictions. Use at a NAVA point at any NAVA point across Hungary does not mean any difference to use at a computer of NAVA itself, hence it is on the premises use as well just providing easier access for citizens nationwide ensuring the real possibility of purpose dedicated to education in fair use.

At these NAVA points—as well as in NAVA itself—users can stream the programmes. NAVA pursues to stimulate more legal use with being a mediator: if one would like to download the media file of a given programme she can write to NAVA who forwards the request to rightholders. (Knowing who is the rightholder actually is not so plausible since the Act does not set out this information among required metadata. Therefore NAVA sends requests to MTVA (Media Support and Asset Management Fund) in case of public service broadcasters' programmes and guides users directly to the commercial broadcasters in case of their programmes.)

NAVA is considering service broadening: they would like to provide paid content due to future agreements with rightholders.

### Denmark: DR

The current system of legal deposit was established in Denmark on with the following assignments:

- administering the Danish Law on Legal Deposit (Act No. 1439 of 22 December 2004 on Legal Deposit of Published Materials)

This act covers—among others--radio and television programmes: this section allows for the recording of Danish radio and television programmes broadcast by Danish radio and television broadcasting companies or programmes aimed at a Danish audience broadcast by companies domiciled outside Denmark. But this regulation on legal deposit surrendering does not let any public access. According to the Act on Legal Deposit of Published Materials the Published Materials can only be made available to the public within the frame of the Copyright Act.

The frame of the Danish Copyright Act is on this area as follows: Public archives (and public and other libraries that are financed in whole or in part by the public authorities, as well as State-run museums and museums that have been approved in accordance with the Museums Act) may use and distribute copies of works in their activities in accordance with the provisions of subsections section 16 (2)-(6) (e.g. back-up) if this is not done for commercial purposes. The copyright does not prevent the making of copies in accordance with the provisions of the Act on Legal Deposit of Published Material. Copies that have been delivered pursuant to the Act on Legal Deposit of Published Material may be loaned to users. (This provision does not apply to recordings of moving pictures and copies made in digital form or in the form of sound recordings.)

Published works may be made available to individuals at the specified institutions (as public archives) for personal viewing or study on the spot by means of technical equipment. Notwithstanding the provisions above, copies that are made or deposited pursuant to the Act on Legal Deposit may only be made available at the Royal Library, the State and University Library and the Danish Film Institute for separate individual persons. These institutions may communicate and hand over legal deposited copies of works that have been broadcast on radio and television, films and works published on electronic communication networks, for research purposes, if the work cannot be acquired through general trade. Such copies may not be used in any other way.

A general ECL came into the Danish Copyright Act in 2008 (section 50 (2)): Extended collective license (according to specified sections) may be invoked by users who have made an agreement on the exploitation of works in question with an organization comprising a substantial number of authors of a certain type of works which are used in Denmark. ECL may also be invoked by users who, within a specified field, have made an agreement on the exploitation of works with an organization comprising a substantial number of authors of a certain type of works that are used in Denmark within the specified field. However, this does not apply, if the author has issued a prohibition against use of his work in relation to any of the contracting parties. The ECL gives the user right to exploit other works of the same nature even though the authors of those works are not represented by the organisation. The ECL gives the user right only to exploit the works of the unrepresented authors in the manner and on the terms that follow from the license agreement made with the organisation.

Rights holder organisations which make agreements of the nature mentioned above, shall be approved by the Minister for Culture to make agreements within specified fields. The Minister may

decide that an approved organization in certain fields shall be a joint organisation comprising several organisations that meet the conditions above.

The general ECL has until now not been used to make public access to the Materials through the libraries, but has been used to make programmes available to higher education and for research through the State Library.

#### **France: Ina**

The National Audiovisual Institute was founded in 1974. Its mission was and is to collect, preserve, restore and communicate France's radio and television archives, which add up to over 70 years of radio programmes and 60 years of television programmes. With over four million hours of radio and television stored, Ina's collections are some of the largest broadcast archives in the world. Soon after launching a digitization plan for its endangered archives in 1999, Ina introduced a digital recording policy for television and radio broadcasts. Since the legal deposit was extended by law to radio and television broadcast in 1995, the collections have expanded to 100 television channels and 20 radio channels recorded around the clock, 7 days a week, for legal deposit purposes. As audiovisual content has gradually been shifting online, Ina is also responsible for archiving websites related to the broadcast industry, which became a legal requirement for the Institute in 2006.

The Institut national de l'audiovisuel (Ina) is an E.P.I.C., a National Public Utility Company, founded by the Law of August 7, 1974. It opened for business on January 6, 1975. The company's missions as a public service have been defined by the following laws:

- July 29, 1982: operating rights assigned to Ina for audiovisual archives;
- September 30, 1986: Ina was opened to the competitive market;
- June 20, 1992: legal deposit for radio and television;
- August 1, 2000: new operating rights assigned on August 1, 1997;
- August 1, 2006: legal deposit for the Internet.

These missions are laid down in specifications promulgated by decree, following advice by France's Conseil supérieur de l'audiovisuel (Higher audiovisual council, or CSA). The specifications currently in force (excepting clauses that are incompatible with later laws), result from the decree of November 13, 1987.

There are different laws in France regulating the current work of INA: one is on legal deposit for all French TV and Radio channels—this one ensures no rights to INA for use; the other one gives INA responsibility to collect and preserve public broadcast programs for which Ina has partial commercial rights. The law of commons (*Code du patrimoine*) has a chapter on legal deposit (*dépôt légal*) which allows INA to collect and preserve all audiovisual materials of French public broadcasters has been made available to audience (regardless of their technical process of production, publication or distribution) as soon as they are made accessible to the public by the publication of a physical carrier. Legal deposit prevents any online access to collected material: this regulation allows INA only to make these materials available onsite/on the premises, no other rights. The French law on freedom of communication (Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication (Loi Létard))—which mainly lays down the tasks and possibilities of INA—give INA responsibility to record and collect all French TV and radio programmes—except fiction, concerts and other music programmes. One year after the broadcasting commercial rights get into INA: INA becomes permitted

to sell excerpts from these programmes. The buyers are usually producers, other broadcasters—and significant part of INA's income comes from these sales. Beyond these above, INA has contracts due to which INA makes available quite a few videos; some among them can be downloaded from INA site as well (for paying). (24-25% of these proceeds are repaid for right holders.) This site has advertising space, which also means incomes for INA.

#### **Poland: NInA**

Although the Polish National Audiovisual Institute (Narodowy Instytut Audiowizualny, abbreviated to NInA) was created after the model of INA, it works on a distinct way. NInA was founded 2009 as a leading cultural institution in charge of digital preservation, dissemination, publishing and promotion of archives documenting Polish Audiovisual heritage, as well as media literacy. Activities of NInA include curation of collections from audio and audiovisual archives, recording of live music and theatre pieces, as well as media education. Its mission is to promote online and offline the less popular manifestations of culture, such as contemporary performing arts and documentary films. CULTURE+ is the governmental answer to the lack of legal framework for digitization of culture (including legal deposit which applies only to books and cinema, not audiovisual works). NInA was appointed as the operator of the Programme taking the role of the competence centre for audiovisual digitization.

CULTURE+ Digitization Programme is a multiannual programme of NInA and the Polish Ministry of Culture and National Heritage for funding digitization infrastructure and digitizing collections of documents, books, museum objects and audiovisual archives. It's 2011-2015 budget amounts to €30 000 000. CULTURE+ Digitization Programme provides an opportunity for public cultural institutions (national archives, public libraries, museums and film studios) to take part in a grant application process for digital preservation.

CULTURE+ Digitization Programme consists of funding coordinated by NInA via a grant system that is conducted with 4 other Competence Centres: National Digital Archives, National Library, National Heritage Board of Poland and National Institute of Museology and Collections Protection, as well as with independent experts. In addition, CULTURE + Digitization Programme enables NInA to run its own audiovisual preservation projects in cooperation with public broadcasters such as TVP or Polish Radio. Multi-channel distribution of digital archives for cultural and education purposes is an overall deliverable of the programme.

It is the second digitization programme operated by NInA. It follows the "Digital Resources" programme, which in 2009-2010 funded 25 audiovisual and archival projects. It's budget amounted to €2 500 000. Moreover, in 2011-2012 NInA ran the "Digital Heritage" programme, dedicated to non-governmental entities such as local cultural or historical associations and organizations related to national minorities. Over 40 projects were funded within its €1 500 000 budget.

The objective of the CULTURE+ Digitization Programme is to provide funding for digitization and archiving, acquisition of infrastructure, metadata description and content distribution. The main goal is to preserve culturally valuable objects endangered due to their physical and technical condition. There is an equal division between all of them within the total budget due to the 4 different types of media, therefore the quarter of the budget is appropriated to audiovisual content.

Partnership between NInA and Telewizja Polska (TVP) conducted in the frame of the CULTURE+ Digitization Programme is a good example of how the system works with regard to audiovisual archives. Archival content can be digitized by broadcaster's archive or, optionally, by a private company. The original physical carriers are kept within the archives of the broadcaster. As part of the digital migration, two digital copies are created, of which one stays in the original storage and the other is transferred to NInA. Distribution of the digitized content can be conducted under shared legal licenses in order to make the audiovisual heritage available for general public in the multimedia online library D5.2 Research in Online-publication of audiovisual heritage in Europe V02-0.docx. After 2 years of the CULTURE+ Digitization Programme, the most important achievements in the audiovisual sector can be exemplified by the following figures. Almost 400 TVP titles and over 2500 Polish Radio broadcasts were digitized. The National Film Archives enriched their digital repository with 39 animated films, 33 documentaries and 29 feature films produced by various film studios. The Lodz Film School digitized or reconstructed nearly 50 different titles and Video Studio Gdansk was able to preserve more than 1500 videos.

While the first phase of the CULTURE+ Digitization Programme was focused on providing infrastructure to various beneficiaries, the next 3 years will be devoted to financing digitization of cultural collections. The National Audiovisual Institute is a cultural institution established in 2009 with mission to preserve and distribute audiovisual heritage and educate in new media. The CULTURE+ Digitization Programme is of utmost importance for NInA as it operates in absence of a complex legal framework for public audiovisual archives in Poland. This absence of complex legal framework means that there is no legal deposit in Poland. 70% of audiovisual content possessed by NInA is possessed due to one-to-one agreements. And as we can see above this digitisation does not serve commercial purposes: the copies possessed by NInA can be used only for non-commercial purposes. The absence of legal framework is somewhat to be corrected by implementation of Orphan works directive. But in Poland orphan audiovisual works can be found only from the 50ies-60ies, the regulation on orphan works is considered important because of music pieces' legal status.

#### 4 Possible solutions on a pan-European level?

##### Aims and barriers

Our aim is to improve the existing conditions for making online audiovisual collections available. We identify the structural obstacles, summarize them in a strategic agenda for policy change and advocate for solutions on a pan-European level.

It can be easily detected that one of the main (if not *the* main) barrier of providing free access to European TV heritage is the problematic, diversified and very complex legal environment. Our task is to **make recommendations** for a potential legal harmonization which could solve this problem. What kind of interests are at stake? On the one hand there is the interest of the authors and other contributors. On the other hand there is the **interest of preserving and making available the cultural heritage**. Do we know of a legal institution which comes to a decision in this question? Yes, we do. This is legal deposit.

### Legal deposit as an existing institution

At first glance the notion of legal deposit is about the possession. Its definition only contains the statutory obligation to deposit at least one copy of every – in our case audiovisual/TV -- publication, free of charge, at some kind of designated deposit libraries or institutions. Therefore completion only ensures the possession of the state. But if one seeks any purpose of this legal institution that is about preserving the cultural heritage--without this factor, the institution is senseless. Preserving something though cannot be pointless, it involves some kind of public: preserving something for someone. Considering this point brings along the issue of access also. This evident connection can be read out e.g. from the argumentation of Agency of Legal Deposit Libraries in UK, when it mentions the possibility of public access to the deposited publications at the first place among the legal deposit system's benefits for authors and publishers:

*Deposited publications are made available to users of the deposit libraries on their premises, are preserved for the benefit of future generations, and become part of the nation's heritage; Publications are recorded in the online catalogues, and become an essential research resource for generations to come.*<sup>110</sup>

These paragraphs consider principally printed publications, but the assigned goal does not differ in regard AV materials. Howard Besser and Kara van Malssen (New York University) mentioned these aims of AV legal deposit laws citing responses they had got in a five-continent-wide international survey: "preservation of works; building a national collection, to collect the cultural heritage for the future".<sup>111</sup> According to this survey done by NYU Moving Image Archiving & Preservation Program in 2010 among 35 countries (24 European), 86% of the respondents have mandatory legal deposit as an institution. Considering the ratio of European countries among respondents we can declare that legal deposit is a prevalent mean in Europe.

EUscreenXL's survey responses strengthen that legal deposit is a **well-known and operable institution** in several countries in Europe. Surely there are important differences: in its scope, and in the accessibility of deposited content. The access can be ensured regulatory means only, partly because of the tension mentioned above. This is why we are pursuing to find best practice: where the scope is adequate (does not hurt more interest than needed but big enough to touch substantive quantity of content), and where the access is the widest possible.

In the survey **10 of the participants answered that there is a legal deposit** for the question if their organization has a specific legal responsibility for collecting and keeping AV materials. Of course there are countries where there is no legal deposit. 14 respondents answered that there is a domain mandate or an agreement. What we need to map is what kind of strain it would mean for them if there was a European obligation of surrendering legal deposit. As far as we know domain mandate practically ensures availability of relevant materials therefore a big change would not be necessary in those countries either.

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<sup>110</sup> <http://www.legaldeposit.org.uk/>

<sup>111</sup> Besser and van Malssen, "Legal Deposit for Audiovisual Material: Preliminary Survey Results."

As we indicated above legal deposit on its own of course does not ensure access. But we know practices in Europe where there are great solutions, great arguments by virtue of which practically really wide, almost free access works. Mapping best practices like this would prove that no stakeholders were harmed by a national regulation like above. It means it probably would not harm anyone if this regulation was extended to a European level. Thereinafter we would like to present a national, the Hungarian solution as a best practice and to draft what kind of application or extension of this model could provide a pan-European solution.

### **Best practice: Hungary**

NAVA (National Audiovisual Archive of Hungary) constitutes the legal deposit archive of the Hungarian national broadcasters, collecting audiovisual content. Due to the 2004 CXXXVII Act on National Audiovisual Archive the scope of its collection comprises the programmes of the national terrestrial televisions and radios, produced in or relating to Hungary. Through a VPN-like system (called NAVA-points, being in libraries and schools countrywide) public has access to materials collected by NAVA. This solution has been created within the frame of Copyright Act of Hungary (Act No. LXXVI. of 1999 on Copyright), which settles educational and scientific aim among exceptions. This system has been applied for 10 years without any query or offense.

### **The regulatory framework<sup>112</sup>**

Firstly the regulation must ensure the actual ('physical') possession of a copy: it needs "direct" regulation on legal deposit of audiovisual works. The other regulatory issue is the very right to use the work (given that: it is on the public domain or the licence of the rights holders is granted): it is the territory of copyright law. What kinds of rights are needed for digital uses (in terms of ©)?

- Archiving: the right for reproduction
- Transferring the works via the electronic communication system: the right for communication to the public
- Use of the works by individuals on terminals: the right for public performance

The next question is how to acquire these rights? The answer is based on the concept of **free use for public interest purposes**. Its precondition can be found in the 2001/29/EC 'Infosoc' Directive: Preamble (34) and Article 5, 2.(c) and 3. (n). The Hungarian Copyright Act implemented these exceptions therefore a system with this kind of public access at NAVA-points could have been created. Copyright law and direct regulation related to audiovisual archives are – in principle - two distinct legal systems. However, the rules providing exceptions and limitations for publicly accessible libraries and other similar institutions – in particular for audiovisual archives – create an important interface between the two separate bodies of norms. In general this definite separation between copyright law and direct regulation related to audiovisual archives is of technical importance. In the practice the two groups of norms has to provide a balanced level of legal certainty both in terms of institutions and in terms of possibilities for use.

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<sup>112</sup> Based on Rozgonyi, "Legal Deposit of Audiovisual Works - Copyright Matters."

### **Short-term solution: applying the Hungarian model as best practice**

An elaborated description of the Hungarian regulatory model on AV archive and the access for it stressing its feasibility and operability can serve a great tool in national argumentations where the current legislation enables less access but the resolution is present – either at the professional or the governmental side – to extend it. Nevertheless, as it has been presented above, this system has some necessary conditions, e.g. certain copyright exceptions have to be implemented. This issue takes us to middle-term solution.

### **Middle-term solution: mandatory exceptions**

We are convinced that the named exceptions: Article 5, 2.(c) and 3. (n). of InfoSoc Directive should be mandatory to implement. This is a vital condition for enabling European countries to create TV heritage-preserving system with a wider public access.

### **Long-term solution: Extended European model**

Working systems modeling the Hungarian one in the long run can be linked into a pan-European system with designated terminals: EUscreenXL-points (modeling current NAVA-points) containing libraries and schools across Europe. The legal basis of it should be a European legal deposit created in a new directive. This directive could rely on the possibilities ensured by the Infosoc Directive mandatory exceptions mentioned above and the morale applied recently in PSI directive scope widening. This means the scope of this legal deposit regulation should be the public service programmes. This is the range of AV programmes which already has the dedicated status being important for public service mission. Public service is an idea that is aimed to serve public interest. Declaring public right to access to AV documents which has been created of public funds for public interest is the starting point of PSI directive also, the scope of which currently has been widened. This shows that a regulation on legal deposit surrendering public service programmes would fit into EU legislation policy. This also fits well to EUscreen policy: the gathered and published programmes by EUscreen correspond to the scope of public service programs. And—as we know at the moment—this is the usual scope of national legal deposits as well, therefore a European legal deposit as a legal institution would not mean a quality change or overflow for countries in which national archives already work. Furthermore, these are the programs that almost never have commercial use. It is really not typical that people buy the 8 o'clock news of yesterday or cultural programme from last week. It means that a European legal deposit regulation that would yield access to surrendered content would probably not cause any loss for broadcasters or for archives.

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## E CONCLUSIONS & NEXT STEPS

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EUscreenXL aggregates content available online to Europeana, Europe's common cultural platform. Its network reaches across the continent and includes national archives, footage archives and public service broadcasters who wish to explore the potential of offering public access to their moving image heritage. EUscreenXL is expanding: the network seeks to include new collections and thus sensitively increase the amount of audiovisual works findable through Europeana. In order to realise this increase, the network needs a clear proposal to new members. Funding, for archives, has been and will be a source of sorrow for the years to come. Where funding can be found for new accessibility projects, the preservation of both analogue and digital materials is a fundamental activity, much needed to support these activities. Accessibility projects and platforms however, are the primary focus point for the outside world. They invite archives with different missions to make an impact – and share the value so carefully held in their vaults and tape robots.

Audiovisual heritage is central to our remembrance of the eventful twentieth century. Professional films, home movies and television programs represent our shared history, cultures and societies in the most profound way. Being able to hear and see the ways life was and continues to be is a wonderful ability that technology grants us and a necessity for born-digital generations to come. EUscreenXL strives to make all this content findable through one access point. This will allow everyone to easily explore Europe's moving image heritage. The EUscreenXL consortium offers its members a place to share experiences with various forms of impact making, impact measurement, and reaching out.

In the remaining months, WP5 will take the base research outlined in this report and, on the one hand continue and deepen the analyses, and on the other take up the most important issues that the network can engage with and outline an agenda for improving accessibility to European audiovisual heritage materials through Europeana. The ultimate goal is to make use of the window the project offers to make an impact on archives hesitating to make their collections publicly available, and on policy makers not fully grasping the social value of the materials held in climate-controlled vaults.

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## GLOSSARY

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- **Access:** The ability to view a digital object or metadata online. Guideline: A User has access when they can view a digital object online.
- **Aggregator:** An organisation that collects, formats and manages Metadata from multiple Data Providers, providing services such as offering their own Portal and acting as Data Provider to Europeana.
- **Collection:** A set of Metadata that has been intentionally-defined at an institutional or thematic level.
- **Content:** A physical or Digital Object that is part of Europe's cultural and/or scientific heritage, typically held by a Data Provider.
- **Creative Industries (CI):** A range of economic activities concerned with the generation or exploitation of knowledge and information.
- **Data Exchange Agreement:** The agreement that governs the exchange of Metadata (including Intellectual Property Rights) between Europeana and its Data Providers.
- **Data Provider:** An organisation that contributes Metadata describing Content that it is offering online.
- **Dataset:** An administrative unit representing a suitable amount of Content or Metadata for ingestion or download.
- **DEN:** Digitaal Erfgoed Nederland. The DEN Foundation is the Dutch knowledge center for digital heritage. <http://www.den.nl/english>
- **Digital Object:** A digital representation of an object that is part of Europe's cultural and/or scientific heritage. The Digital Object can also be the original object when born digital.
- **ECL:** Extended collective license.
- **Europeana Portal:** The access point to the Metadata records aggregated by Europeana.
- **Europeana Semantic Elements (ESE):** The Metadata standard developed by Europeana, now superseded by the Europeana Data Model.
- **Freely Re-usable Content:** Digital Objects that are available for re-use with minimal or no conditions, specifically those objects labelled Public Domain, CC0, CC-BY and CC-BY-SA.
- **Ingestion:** The process of collecting, mapping and publishing the data from the Data Provider to Europeana.
- **Intellectual Property Rights (IPR):** Intellectual Property Rights including, but not limited to copyrights, related (or neighbouring) rights and database rights.
- **Linked Open Data:** Linked Open Data is a way of publishing structured data that allows Metadata to be connected and enriched, so that different representations of the same content can be found, and links made between related resources.
- **Media Asset Management (MAM):** Digital asset management consists of management tasks and decisions surrounding the ingestion, annotation, cataloguing, storage, retrieval and distribution of digital assets. Digital photographs, animations, videos and music exemplify the target areas of media asset management.
- **Metadata Mapping:** An expression of rules to convert structured data from one format or model to another such as EDM.

- **Metadata:** The textual information and hyperlinks that serve to identify, discover, interpret and/or manage Content.
- **MXF:** Material eXchange Format is a container format for professional digital video and audio media defined by a set of SMPTE standards.<sup>113</sup>
- **Netizen:** Combination of the words Internet and citizen, indicating persons actively involved in online communities and activities.
- **Orphan work:** an original, creative work (like books, newspaper and magazine articles and films or photographs) is an 'orphan' if it is still protected by copyright but its author(s) or other rightholders are not known or cannot be located or contacted to obtain copyright permissions.
- **Public Broadcasting:** Includes radio, television and other electronic media outlets whose primary mission is public service.
- **Public Domain:** Content, Metadata or other subject matter not protected by Intellectual Property Rights and/or subject to a waiver of Intellectual Property Rights.
- **Public Service Media (PSM):** Media which fulfil the same public purposes as public service broadcasting, but use digital media and platforms, including the Internet, instead of broadcast television or radio.
- **Re-Use:** The ability to make use of a Digital Object or Metadata that is available online, through the acts of sharing, duplicating, modifying or publishing.
- **Rights Statement:** A statement that describes the conditions for Access and Re-use of Digital Objects and their Previews. Rights statement are communicated via the 'edm:rights' Metadata Field as defined by the Europeana Data Model.
- **Scrollytelling:** interactive longreads. A combination of scrolling and story telling as a new way of presenting (archival) works in stories on the internet.
- **User or End-user:** A person or entity making use of the services offered by Europeana through the Europeana Portal, Europeana API, third party services or social networks.
- **4K:** 4K-resolution refers to display devices or content with a horizontal resolution on the order of 4,000 pixels, like in the fields of digital television and digital cinematography.

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<sup>113</sup> [http://en.wikipedia.org/wiki/Material\\_Exchange\\_Format](http://en.wikipedia.org/wiki/Material_Exchange_Format).

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## APPENDIX I: OUTCOMES OF THE SURVEY ON THE STATUS OF ONLINE ACCESS TO AUDIOVISUAL ARCHIVES

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Between October 21 and November 22, 2013, collection managers and legal experts were invited to participate in a survey about online access to audiovisual archives. The aim of the survey was to help identify possible shared benefits and/or barriers encountered by audiovisual archives in providing EUscreenXL and Europeana with digitised content from their collections. The online survey of approximately 25 statements was sent by e-mail to 122 individuals affiliated with various audiovisual institutions across Europe. The EUscreenXL project is a cooperative effort by over 30 different European audiovisual organisations from more than 20 EU member states. A total of 79 professionals from 58 organisations responded to the survey, working in archives, libraries, museums, broadcasters and universities, based in 27 countries. Of this number, approximately 40 respondents fully completed the survey.

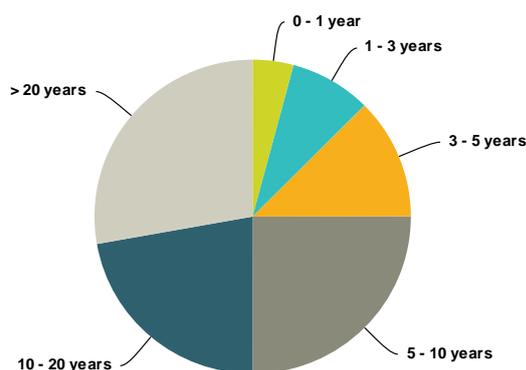
In this annex the full results of the survey are presented on the status of online access to audiovisual archives. All results that could lead to individual responses have been anonymized.

### *Survey Part 1: Introduction*

#### Online Access to Audiovisual Heritage

#### Q2 How long have you worked at your organisation?

Answered: 72 Skipped: 7



Answer Choices	Responses	
0 - 1 year	4.17%	3
1 - 3 years	8.33%	6
3 - 5 years	12.50%	9
5 - 10 years	25.00%	18
10 - 20 years	22.22%	16
> 20 years	27.78%	20
<b>Total</b>		<b>72</b>

Q3 What is the title of your position?

- Answered: 75
- Skipped: 4

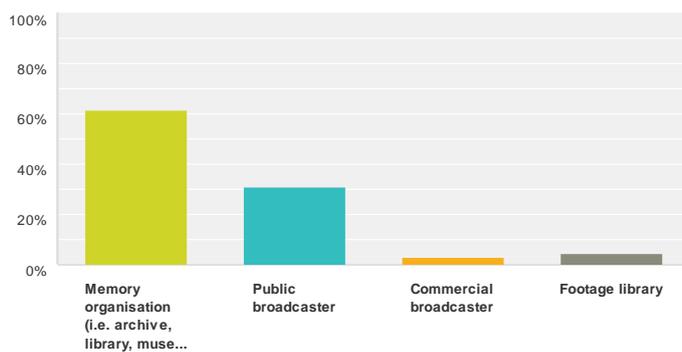
Anonymized and categorized answers:

Collections expert	20 respondents
Management	12 respondents
Senior management	30 respondents
Legal experts	4 respondents
Policy advisors	4 respondents
Unknown	4 respondents

Online Access to Audiovisual Heritage

**Q4 Please select the main activity of your organization**

Answered: 65 Skipped: 14

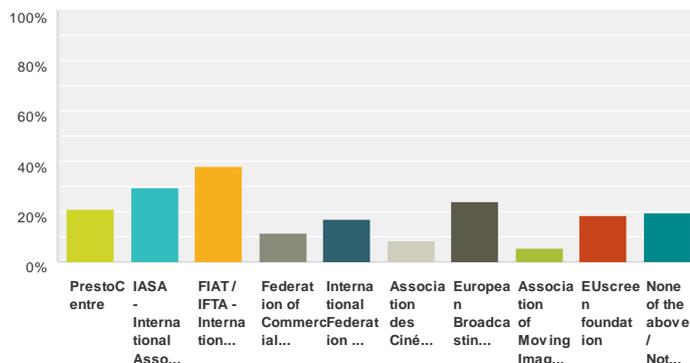


Answer Choices	Responses
Memory organisation (i.e. archive, library, museum or film institute)	61.54% 40
Public broadcaster	30.77% 20
Commercial broadcaster	3.08% 2
Footage library	4.62% 3
<b>Total</b>	<b>65</b>

Online Access to Audiovisual Heritage

**Q5 Are you or is your organisation a member of one of the following representative or collective organisations in the audiovisual domain? You may select multiple answers.**

Answered: 71 Skipped: 8

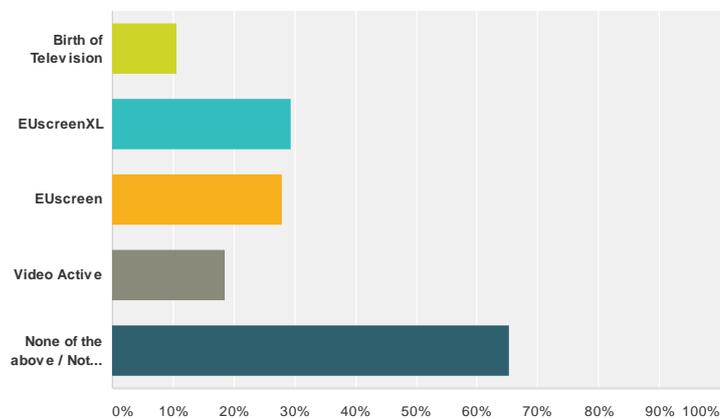


Answer Choices	Responses
PrestoCentre	21.13% 15
IASA - International Association of Sound and Audiovisual Archives	29.58% 21
FIAT / IFTA - International Federation of Television Archives	38.03% 27
Federation of Commercial Audiovisual Libraries (FOCAL)	11.27% 8
International Federation of Film Archives (FIAF)	16.90% 12
Association des Cinémathèques Européennes (ACE)	8.45% 6
European Broadcasting Union (EBU)	23.94% 17
Association of Moving Image Archivists (AMIA)	5.63% 4
EUscreen foundation	18.31% 13
None of the above / Not sure	19.72% 14
<b>Total Respondents: 71</b>	

Online Access to Audiovisual Heritage

**Q6 Was/is your organization project partner in one of these projects? You may select multiple answers.**

Answered: 75 Skipped: 4



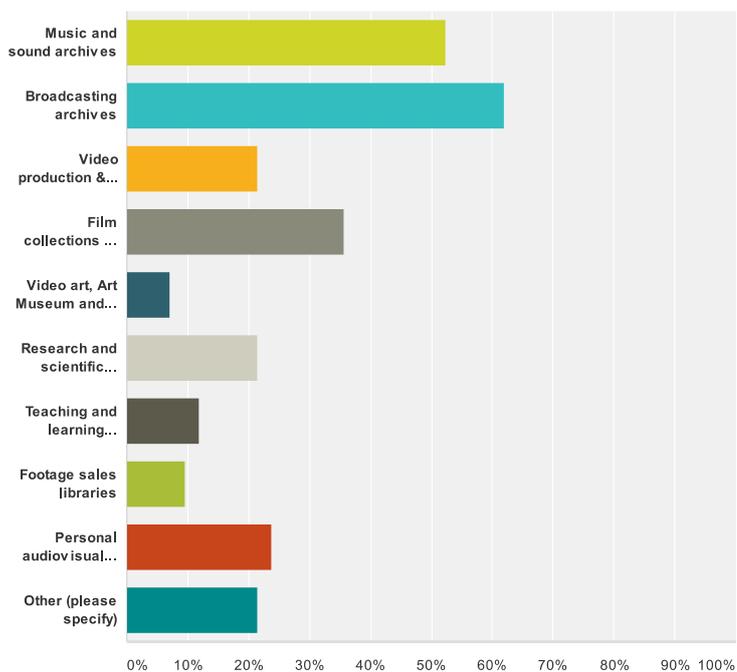
Answer Choices	Responses
Birth of Television	10.67% 8
EUscreenXL	29.33% 22
EUscreen	28.00% 21
Video Active	18.67% 14
None of the above / Not sure	65.33% 49
<b>Total Respondents: 75</b>	

## Survey Part 3: Status of Audiovisual Collections Online

### Online Access to Audiovisual Heritage

#### Q29 What are the main types of your holdings?

Answered: 42 Skipped: 37

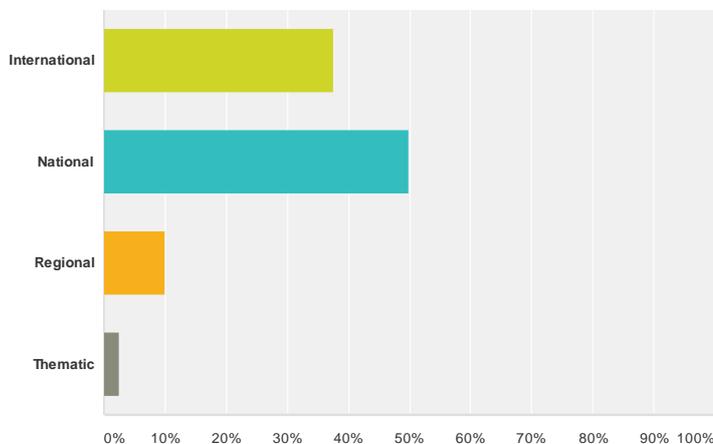


Answer Choices	Responses	Count
Music and sound archives	52.38%	22
Broadcasting archives	61.90%	26
Video production & post-production archives	21.43%	9
Film collections and film makers	35.71%	15
Video art, Art Museum and Galleries	7.14%	3
Research and scientific collections	21.43%	9
Teaching and learning repositories	11.90%	5
Footage sales libraries	9.52%	4
Personal audiovisual collections	23.81%	10
Other (please specify)	21.43%	9

Online Access to Audiovisual Heritage

**Q30 What is the core geographical range and focus of your organisation's collections?**

Answered: 40 Skipped: 39



Answer Choices	Responses	Count
International	37.50%	15
National	50.00%	20
Regional	10.00%	4
Thematic	2.50%	1
<b>Total</b>		<b>40</b>

Online Access to Audiovisual Heritage

**Q31 Can you estimate the amount of your holdings created per decade (in percentages)?**

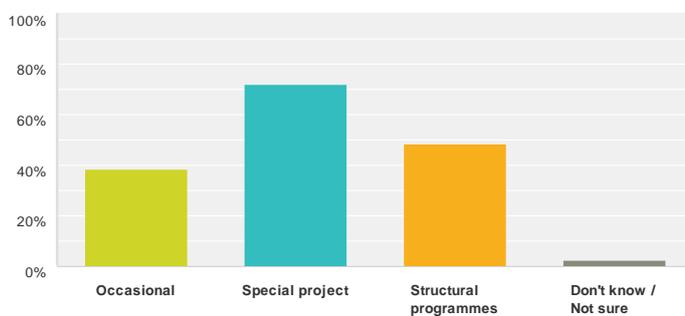
Answered: 28 Skipped: 51

Answer Choices	Responses	Count
Until 1923	64.29%	18
1923 - 1950	71.43%	20
1950 - 1980	82.14%	23
1980 - 2000	100.00%	28
2000 - present	100.00%	28

Online Access to Audiovisual Heritage

**Q32 How would you characterize the digitization activities of your institution?  
You may select multiple answers**

Answered: 39 Skipped: 40



Answer Choices	Responses
Occasional	38.46% 15
Special project	71.79% 28
Structural programmes	48.72% 19
Don't know / Not sure	2.56% 1
<b>Total Respondents: 39</b>	

Online Access to Audiovisual Heritage

**Q33 What estimated percentage of your audiovisual collections is currently available in digital form?**

Answered: 35 Skipped: 44

Answer Choices	Responses
Film in %	71.43% 25
Audio in %	71.43% 25
Video in %	85.71% 30

Online Access to Audiovisual Heritage

**Q34 What estimated percentage of the audiovisual collections is currently accessible online?**

Answered: 31 Skipped: 48

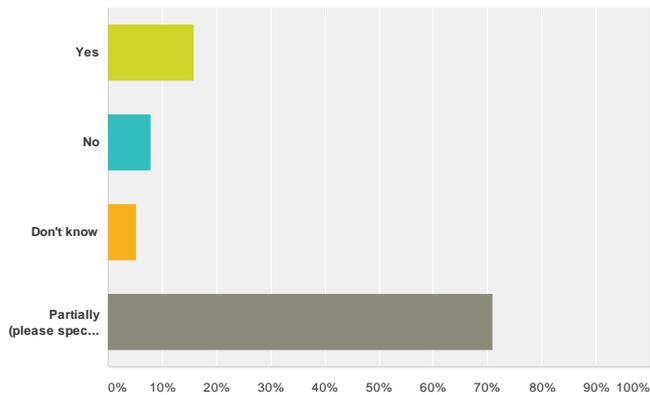
Answer Choices	Responses	
Film in %	74.19%	23
Audio in %	74.19%	23
Video in %	83.87%	26

*Survey Part 4: Access policies*

Online Access to Audiovisual Heritage

**Q35 Does your institution own the rights to your collections?**

Answered: 38 Skipped: 41

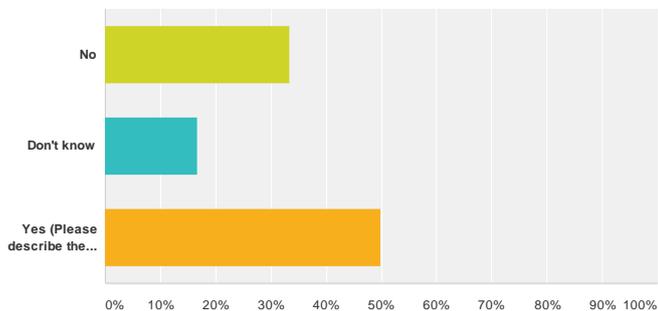


Answer Choices	Responses	
Yes	15.79%	6
No	7.89%	3
Don't know	5.26%	2
Partially (please specify and give an estimate of the percentage of owned rights)	71.05%	27
<b>Total</b>		<b>38</b>

Online Access to Audiovisual Heritage

**Q36 Does your organisation have an explicit in-house policy regarding the online use of your digital collections?**

Answered: 36 Skipped: 43

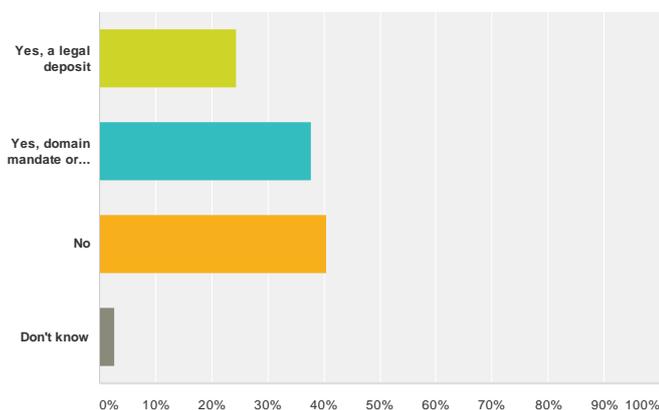


Answer Choices	Responses
No	33.33% 12
Don't know	16.67% 6
Yes (Please describe the main objectives of this policy)	50.00% 18
<b>Total</b>	<b>36</b>

Online Access to Audiovisual Heritage

**Q37 Does your organization have a specific (legal) responsibility for collecting and keeping AV materials?**

Answered: 37 Skipped: 42

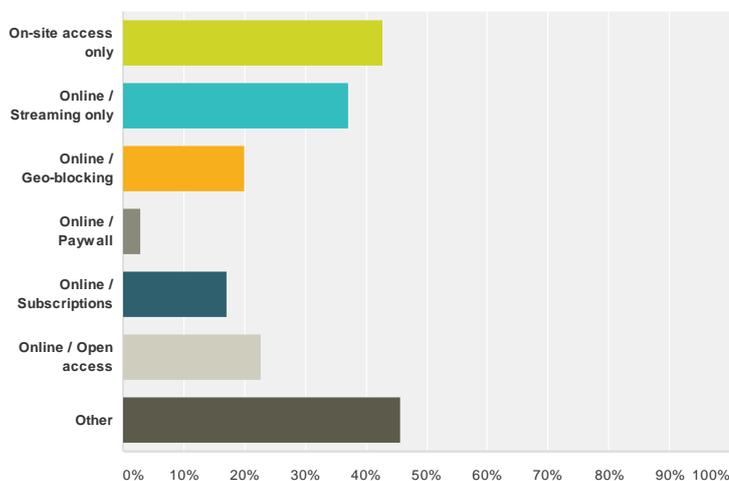


Answer Choices	Responses
Yes, a legal deposit	24.32% 9
Yes, domain mandate or agreement	37.84% 14
No	40.54% 15
Don't know	2.70% 1
<b>Total Respondents: 37</b>	

Online Access to Audiovisual Heritage

**Q38 What type of access do you provide for your digital collections? You may select multiple answers**

Answered: 35 Skipped: 44



Answer Choices	Responses	Count
On-site access only	42.86%	15
Online / Streaming only	37.14%	13
Online / Geo-blocking	20.00%	7
Online / Paywall	2.86%	1
Online / Subscriptions	17.14%	6
Online / Open access	22.86%	8
Other	45.71%	16
<b>Total Respondents: 35</b>		

Online Access to Audiovisual Heritage

**Q39 Please indicate the channels through which your collections are accessible. You may select multiple answers. Please provide URLs where possible.**

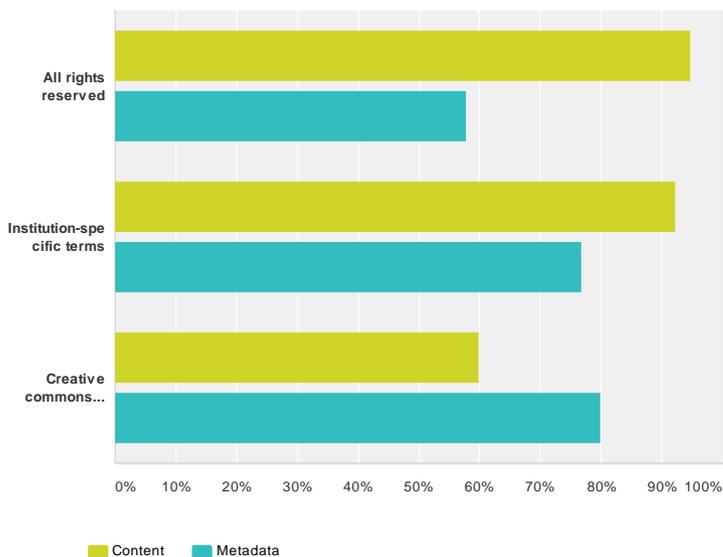
Answered: 30 Skipped: 49

Answer Choices	Responses	Count
On-site	60.00%	18
Company or institutional website	73.33%	22
Freely accessible third-party platforms (e.g. YouTube, Vimeo, ...)	53.33%	16
Paid third-party platforms (e.g. VOD platforms, footage sales platforms, ...)	20.00%	6

Online Access to Audiovisual Heritage

**Q40 What types of licenses or terms of use does your organisation use for its online audiovisual content?**

Answered: 27 Skipped: 52



	Content	Metadata	Total Respondents
All rights reserved	94.74% 18	57.89% 11	19
Institution-specific terms	92.31% 12	76.92% 10	13
Creative commons licensing	60.00% 3	80.00% 4	5

## Survey part 5: Q41 Benefits & Barriers of Online Publication of Collections

Please read the following statements carefully about the benefits of and barriers to online publication of your materials, and rate the applicability of each statement to your organization								
Answer Options	1 - Don't agree at all	2	3	4	5 - Fully Agree	N/A	Rating Average	Response Count
Our collections are largely analogue because our financial resources for digitization are insufficient	6	2	6	4	11	3	3,41	32
The financial resources to make our collections available online are insufficient	1	1	5	6	17	2	4,23	32
Our technical knowledge to make collections available online is insufficient	12	7	8	4	0	1	2,13	32
Our technical resources (e.g. bandwidth, hardware, etc.) needed to make collections available online are insufficient	6	4	5	4	11	2	3,33	32
IPR restrictions prevent us from publishing collections online	3	4	2	11	7	5	3,56	32
Our collections are largely not online because it is not clear to us what we can and can not publish online under copyright law	7	10	7	3	5	1	2,66	33
Our organisational policies do not prioritize making our digital collections available online	8	10	6	5	4	1	2,61	34
We fear that publishing our collections online will cause a loss of revenue	13	8	6	2	2	2	2,10	33
We are concerned about the context in which our materials may be used when we publish them online	2	6	7	6	8	4	3,41	33
We are concerned about other parties profiting from our content if we publish it online	5	9	6	3	7	2	2,93	32
Making our archive materials available online creates greater traffic to our websites	1	2	5	7	15	2	4,10	32
Making our archive materials available online is a great way to create interaction with our users	0	1	6	6	19	0	4,34	32
Making our archive materials available online encourages audiences to tell us more about our content (e.g. by providing comments, adding information or indicating necessary corrections)	0	4	5	5	15	3	4,07	32
Making our archive materials available online supports our organisation's mission to make archive materials publicly available	0	0	6	6	16	3	4,36	31
Making our archive materials available online creates greater visibility for our organisation	0	0	3	7	22	1	4,59	33
Making our archive materials available online contributes to public knowledge	0	0	4	5	23	0	4,59	32
Making our archive materials available online enables people who want to buy footage from us to find it more easily	2	0	2	6	16	7	4,31	33
We preserve and digitise audiovisual materials to make them accessible to as many users as possible	1	2	5	6	14	3	4,07	31
Putting our audiovisual collections online makes our national history more visible to an international audience	0	0	4	5	22	1	4,58	32
<i>answered question</i>								<b>34</b>
<i>skipped question</i>								<b>45</b>

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**APPENDIX II: SUMMARY OF THE INVENTORY ON LEGAL ENVIRONMENTS FOR AUDIOVISUAL COLLECTIONS IN EUSCREENXL**

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**EU Member States**

Country	Audiovisual deposit	Rights situation
<b>Austria</b>	ORF (Österreichischer Rundfunk)—the public service broadcaster of Austria—runs four different channels and stores materials according to a domain mandate or written agreement. The Austrian State Archive does not collect AV materials.	This work is influenced by the Federal Act on Copyright in Works of Literature and Art and on Related Rights (Copyright Act, StF: Gezette No. 111/1936 (StR: 39/Gu BT:64/Ge p 19)), the Audiovisual Media Services Act (StF: BGBl. I Nr. 84/2001), and the Federal Act on the protection, preservation and utilization of Federal Archival Documents (Federal Archives Act, StF: Gazette I No. 162/1999 )
<b>Belgium</b>	<p>In the early 1960s the department in charge of film took the initiative to preserve and to index film material coming from other services of the public broadcasting. In 1960 the Belgian national broadcaster NIR was divided into two different departments: the Dutch-speaking broadcasting department BRT (N) (now VRT) and the French-speaking RTB (F). In 1974 both departments relocated to the Reyerslaan in Brussels. Films that were previously preserved in the Royal Film Archive or scattered across different studios were also stored here.</p> <p>After the capsizing and sinking of the Herald of Free Enterprise ferry in 1987, the public recognition of the importance of archival material brought about a shift in attitudes in Belgium. Soon all the separate archive services</p>	Their work is influenced by the Decree on radio and television broadcasting of March 27, 2009.

Country	Audiovisual deposit	Rights situation
	<p>of the public broadcasting were relocated to a centralized archive and all material pertaining to their content were stored in a database, which is still used today. Political and cultural pressure groups have in recent years increased the push towards a central storage archive that guarantees the preservation of audio-visual heritage and is accessible to everyone. In the French-speaking part, RTBF collaborates with private partner Sonuma for the digitization and accessibility of its archives. In the Dutch-speaking part, a public institution digitizing and opening the collections, VIAA, was erected in 2013. It has a specific legal responsibility for collecting and keeping AV materials working due to domain mandate or agreement.</p>	
<b>Bulgaria</b>	<p>The Archives of Bulgarian National Television – for movie and television pictures, videos and audio recordings.</p>	<p>The LAW ON THE NATIONAL ARCHIVAL FONDS (Promulgated by State Gazette, issue 57 dated 13 July, 2007) regulates the formation, preservation and use of the National Archival Fonds in Bulgaria. In Section V (which lists Archives and Archival Collections of Museums, Libraries, Cultural Clubs, Cultural, Religious and Other Public Institutions) Art. 33 (1) lists the Archives which store records of a defined type, period and way of creation.</p>
<b>Croatia</b>	<p>The Institute of Ethnology and Folklore Research has a video library including various areas of ethnological and folkloristic themes, from folklore theatre, dance, music and traditional customs through to various contemporary social and political events and duplications of selected TV broadcasts.</p>	<p>Their work is regulated by the ARCHIVES AND ARCHIVAL INSTITUTIONS ACT (Public Bulletin, Official Register of the Republic of Croatia, No. 105/1997 - Narodne novine, službeni list Republike Hrvatske, broj 105/1997)</p>

Country	Audiovisual deposit	Rights situation
<b>Cyprus</b>	The website of Cyprus on Film contains a large number of short films covering various themes such as history, culture, tradition, political issues, environment, etc.	The copyright act of Cyprus: Copyright and Related Rights (Amendment) Act 2007
<b>Czech Republic</b>	The creation of the independent Slovak Television on 1 July 1991 accelerated the end of the central federal broadcasting and the Czech National Council's Act on Czech Television. The Czechoslovak federation and federal television ceased to exist in 1992 and the first Czech national television channel was established on 1 January 1992. Czech Television stores materials according to a legal deposit. For the online access to these materials it is necessary to obtain permission from all stakeholders.	Their work is influenced by the Copyright Act (Consolidated version of Act No. 121/2000 on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (the Copyright Act), as amended by Act No. 81/2005, Act No. 61/2006 and Act No. 216/2006.) and Act No. 499/2004 Coll., on archives and records service.
<b>Denmark</b>	National broadcaster DR.	Danish Law on Legal Deposit (Act No. 1439 of 22 December 2004 on Legal Deposit of Published Materials)—just surrendering, it does not let any public access: materials can only be made available to the public within the frame of the Copyright Act (Consolidated Act No. 202 of February 27, 2010). A general extended collective licensing came into the Danish Copyright Act in 2008.
<b>Estonia</b>	There is no archive for separated Tv heritage, but a Filmarchive works. The National Archives is a governmental authority within the area of government of the Ministry of Education and Research whose main function is to appraise records created or received in the course of performance of public duties by agencies or persons, acquire and	Since January 1, 2012, all the state archives (Rahvusarhiiv -- National Archives of Estonia) function according to the new Archives Act (Passed 17.02.2011). The National Archives' principles pertaining to the use of records with a restricted access are available in the related rules (JUURDEPÄÄSU KORD PIIRANGUGA ARHIVAALIDELE).

Country	Audiovisual deposit	Rights situation
	<p>preserve archival records, grant access to archival records and organise the use thereof. (3§(1)). The National Archives as all public archives enables people to access the preserved documents that are called records. Their policy is that having access to public information is everyone's right. Exceptions are made only on two occasions: to protect important public interests and to protect individuals' private lives from the public eye. For that reason access is restricted to some public records.</p>	
<p><b>Finland</b></p>	<p>The National Audiovisual Institute has been tasked with radio and television archiving since the beginning of 2008. All nationwide broadcasting is being recorded off air as well as sample weeks of programming of local channels. In addition, original quality masters are collected of programmes fulfilling certain criteria and that are thus considered 'works'. The recorded radio and television streams are available for consultation on special workstations at the premises of the Institute, at legal deposit libraries around the country, at the Parliament, and at the University of Tampere School of Communication, Media and Theatre.</p>	<p>The relevant legislation are the Act on the legal deposit and preservation of cultural materials (1433/2007) and the Copyright Act (404/1961).</p>
<p><b>France</b></p>	<p>The National Audiovisual Institute was founded in 1974. Its mission was and is to collect, preserve, restore and communicate France's radio and television archives, which add up to over 70 years of radio programmes and 60 years of television programmes. With over four million hours of</p>	<p>Soon after launching a digitization plan for its endangered archives in 1999, Ina introduced a digital recording policy for television and radio broadcasts. Since the legal deposit was extended by law to radio and television broadcast in 1995, the collections have expanded to 100 television channels</p>

Country	Audiovisual deposit	Rights situation
	radio and television stored, Ina's collections are some of the largest broadcast archives in the world.	and 20 radio channels recorded around the clock, 7 days a week, for legal deposit purposes. As audiovisual content has gradually been shifting online, Ina is also responsible for archiving websites related to the broadcast industry, which became a legal requirement for the Institute in 2006.
<b>Germany</b>	One of the central institutions for audiovisual archiving in Germany is the Federal Archives Film Archive (Bundesarchiv - Filmarchiv). Deutsche Welle as Germany's international broadcaster nourishes its own broadcasting archive.	The legal framework is i.a. given by the German Copyright Act (Urheberrechtsgesetz) and the Law on the Preservation and Use of Federal Archival Documents (Bundesarchivgesetz).
<b>Greece</b>	HeNAA, the national audiovisual archive, was disbanded in 2011. The collections were taken up by public broadcaster ERT, which was in turn disbanded in 2013. The new NERIT broadcaster has taken over the archival duties.	The legal environment is created by Law No. 2121/1993 on Copyright, Related Rights and Cultural Matters (recently amended by of the Law No 4212/2013: Implementation of the Directive 2011/77/EU of the European Parliament and the European Council of 27th September 2011 and of the Directive 2012/28/EU of the European Parliament and the European Council of 25th October 2012 in the Greek National Law and amendment of the Law No 2121/1993 on " Copyright, Related Rights and Cultural Matters" -- was published in the Governmental Gazzete No 257 vol.A on December 3rd 2013).
<b>Hungary</b>	NAVA (National Audiovisual Archive of Hungary www.nava.hu ) constitutes the legal deposit archive of the Hungarian national broadcasters, collecting audiovisual content.. Through a VPN-like system (called NAVA-points, being in libraries and schools countrywide) public has access to materials collected by NAVA.	Due to the 2004 CXXXVII Act on National Audiovisual Archive the scope of its collection comprises the programmes of the national terrestrial televisions and radios, produced in or relating to Hungary. The VPN solution has been created within the frame of Copyright Act of Hungary (Act No. LXXVI. of 1999 on Copyright), which settles educational and

Country	Audiovisual deposit	Rights situation
	(See case study).	scientific aim among exceptions
<b>Ireland</b>	RTÉ (Raidió Teilifís Éireann) is Ireland's national broadcaster, it runs its own audiovisual archive. The RTÉ Archives would house the largest audiovisual collection in the country.	The main government legislation that would relate to the work at RTÉ Archives would be the Copyright and Related Acts, 2000 and the Broadcasting Act 2009
<b>Italy</b>	<p>The legal deposit of Italian produced fiction films and scripts and screenplays is assigned by law, since 1949, to the Cineteca Nazionale (the Italian Film Archive) that was established inside the Centro Sperimentale di Cinematografia, which has been the the first State school of cinematographic art in Western Europe, tailored on the model of the school in Moscow. The Discoteca di Stato - Museo dell'Audiovisivo has the legal deposit of Italian audio and video documents.</p> <p>No legal deposit is defined for television content in Italy. Radio Televisione Italiana (RAI), which is the public national broadcaster, has its own historical archive. Istituto Luce Cinecittà is the oldest cinema related public company in Italy, born from the merging of Cinecittà Holding with Istituto Luce, an institution established back in 1924. Istituto Luce Cinecittà owns the rights over all the content of its archive.</p>	<p>The bylaw/regulation of the legal deposit (not only for films but also for books and archives) has been defined by the Presidential Decree n. 252 of May 3, 2006.</p> <p>Law No. 633 of April 22, 1941, for the Protection of Copyright and Neighboring Rights (as amended up to Decree-law No. 64 of April 30, 2010) contains the constraints on RAI's work.</p> <p>Istituto Luce Cinecittà, which is a State controlled company, has been established in November 2011 as a result of the Decree Law no. 98 of July 6, 2011 and then converted into Law no. 111 of July 15, 2011.</p>
<b>Latvia</b>	The center of AV heritage is the National Archives of Latvia (latv. LNA - Latvijas Nacionālais arhīvs), Latvia State Archive of Audiovisual Documents. The archive's documents are	Its legal possibilities are influenced by the Copyright Law Apr 6, 2000 and especially the Archives Law which passed on 11th of February 2010, and came into force on 1st of January

Country	Audiovisual deposit	Rights situation
	available for use both to the legal entities and individual persons under the arrangements provided in Regulations on Document Use in Archive	2011.
<b>Lithuania</b>	The only state archive where audiovisual documents are stored is the Lithuanian Central State Archive. This Archive also preserves documentary and fiction movies. They store materials according to a domain mandate or written agreement.	Their legal environment is created by LAW ON DOCUMENTS AND ARCHIVES (5 December 1995 No I-1115 (last amended on 2 October 2012 – No XI-2243)), LAW ON CINEMA (5 March 2002, No. IX-752 (last amended on 22 December 2011, No. XI-1897)), LAW ON COPYRIGHT AND RELATED RIGHTS (18 May 1999 No VIII-1185 (new version of 5 March 2005 – No IX-1355, Last amended on 13 March 2008 – No X-1454)), and also the Law of the Republic of Lithuania on the Right to Obtain Information From State and Municipal Institutions and Agencies.
<b>Luxembourg</b>	Centre national de l'audiovisuel Bibliothèque Nationale de Luxembourg	Organisations collecting AV works and have to respect the modified law of 18 April 2001 on copyright, neighboring rights and databases. Concerning other legislation effecting their collecting of works, the Grand-Ducal Regulation of 6 November 2009 on legal submission can be mentioned : <ul style="list-style-type: none"> <li>• Loi modifiée du 18 avril 2001 sur les droits d'auteur, les droits voisins et les bases de données (non-official coordinated text)<sup>114</sup></li> <li>• Règlement grand-ducal du 6 novembre 2009 relatif au dépôt légal<sup>115</sup></li> </ul>

<sup>114</sup> [http://www.eco.public.lu/attributions/dg7/d\\_propriete\\_intellectuelle/droits\\_auteurs\\_voisins/Loi\\_modifiee\\_du\\_18\\_avril\\_2001\\_.pdf](http://www.eco.public.lu/attributions/dg7/d_propriete_intellectuelle/droits_auteurs_voisins/Loi_modifiee_du_18_avril_2001_.pdf) <accessed June 4, 2014>

Country	Audiovisual deposit	Rights situation
<b>Malta</b>	National Archives of Malta preserves AV works which had been donated to the Archives, there is no systematic basic for collecting. Besides the National Archives, there are relevant analogues objects in libraries, in the Public Broadcasting Corporation and the private media, research and private collections but systematic stocktaking had not been done. there is a generic legislative framework, but not addressing in detail AV content and at the moment there is not enforced procedure to collect content in one depository (neither analogue or digital copies).	The National Library Act (ACT VII of 2011) contains legal deposit, but it is not enforced on a systematic basis. Therefore the legal environment is determined by Copyright Act XIII of 2000, amended by Acts VI of 2001, IX of 2003 and IX of 2009, and National Archives Act: ACT V of 2005, as amended by Legal Notice 427 of 2007.
<b>Netherlands</b>	The collection at Sound and Vision contains the complete radio and television archives of the Dutch public broadcasters; films of virtually every leading Dutch documentary maker; newsreels; the national music depot; various audiovisual corporate collections; advertising, radio and video material of cultural and social organizations, of scientific institutes and of all kinds of educational institutions. There are also collections of images and articles from the history of Dutch broadcasting itself and of course an elaborate collection of historical television sets.	
<b>Poland</b>	Polish National Audiovisual Institute (Narodowy Instytut	The copyright act (Law No. 83 of February 4, 1994 on

<sup>115</sup> <http://www.legilux.public.lu/leg/a/archives/2009/0225/a225.pdf#page=2> <accessed June 4, 2014>

Country	Audiovisual deposit	Rights situation
	<p>Audiowizulany, NInA) CULTURE+ is the governmental answer to the lack of legal framework for digitization of culture (including legal deposit which applies only to books and cinema, not audiovisual works). CULTURE+ Digitization Programme is to provide funding for digitization and archiving, acquisition of infrastructure, metadata description and content distribution. The main goal is to preserve culturally valuable objects endangered due to their physical and technical condition. NInA was appointed as the operator of the Programme taking the role of the competence centre for audiovisual digitization.</p>	<p>Copyright and Neighboring Rights (last amended on October 21, 2010)) sets a serious limit to access of digitized content.</p>
<b>Portugal</b>	<p>The public contracts are extensive legal documents, covering all legal obligations of RTP. Regarding the audiovisual archives of RTP's, legal obligations are defined in clause 20 of TV public service contract. This is legislation that regulates the activity of the audiovisual archive of the RTP.</p>	<p>Code of Copyright and Related Rights (as last amended by Law No. 16/2008 of April 1, 2008) RTP as radio and television public service broadcaster in Portugal is subject to fulfilment of legal obligations in various fields including audiovisual archives. These legal obligations are defined in two legal documents: law of television<sup>116</sup> and television &amp; radio public service contracts.<sup>117</sup></p>
<b>Romania</b>	<p>The National Film Archive (Arhiva Nationala de Filme - A.N.F.) ensures the preservation of the cinematographic heritage. Romanian Television (TVR) is the public broadcaster of Romania and it runs its own archive on AV material.</p>	<p>The law that effects their work is Law No. 8 of 14 March 1996 on Copyright and Neighboring Rights.</p>

<sup>116</sup> [http://img.rtp.pt/wportal/grupo/governodasociedade/pdf/ser\\_publicoTV.pdf](http://img.rtp.pt/wportal/grupo/governodasociedade/pdf/ser_publicoTV.pdf) <accessed May 27, 2014>

<sup>117</sup> [http://img.rtp.pt/wportal/grupo/governodasociedade/pdf/ccspradio\\_30junho1999.pdf](http://img.rtp.pt/wportal/grupo/governodasociedade/pdf/ccspradio_30junho1999.pdf) <accessed May 27, 2014>

Country	Audiovisual deposit	Rights situation
<b>Slovakia</b>	<p>On 10 May 2007 the Slovak President ratified the European Convention for the Protection of Audiovisual Heritage by which the Slovak Republic assumed the obligation to designate one or more archives for preservation, deposit and restoration of audiovisual heritage. The Slovak Film Archive works inside the Slovak Film Institute (SFÚ) that is the only national archive, supporting and research performing institution in the field of cinematography in Slovakia.</p>	<p>Slovakia's copyright act is the Act No. 618/2003 on Copyright and Rights Related to Copyright</p>
<b>Slovenia</b>	<p>The Archives and Documentation Service of the Television of Slovenia were established in 1958, when the Slovene TV started to broadcast the programme. The archival public service in Slovenia is performed by the Archives of the Republic of Slovenia, regional archival institutions and archival institutions of local self-government communities. An entity under public law may itself ensure the protections of its own archives subject to the Cultural Minister's authorisation. The Minister shall issue the authorisation on the basis of a special status of the entity under public law in the field of science, higher education or provision of information. The authorisation shall be issued when the Minister has established that the relevant entity /Television archives/ under public law has the necessary and appropriate premises and equipment as well as trained archival staff at this disposal, and provides proof of sufficient means for the protection of its own archives. The archives are cultural monument. RTV as the public</p>	<p>RTVSLO's legal environment is created by the document PROTECTION OF DOCUMENTS AND ARCHIVES AND ARCHIVAL INSTITUTIONS ACT (PDAAIA, published in Official Gazette of the Republic of Slovenia Numb. 30/2006) and COPYRIGHT AND RELATED RIGHTS ACT1 of 30 March 1995 (last amended on 15 December 2006).</p>

Country	Audiovisual deposit	Rights situation
	broadcaster of Slovenia stores material according to a legal deposit.	
<b>Spain: Catalunya</b>	TV3, Televisió de Catalunya as the public broadcaster of Catalonia collects and keeps AV materials according to domain mandate or agreement. It is part of the CCMA (the Catalan Broadcasting Corporation), that depends of the Catalan Autonomous Government (Generalitat de Catalunya).	In 1982, the Executive Council of the Catalan Autonomous Government passed the Bill concerning both the creation of the Catalan Broadcasting Corporation (then Corporació Catalana de Ràdio i Televisió, now Corporació Catalana de Mitjans Audiovisuals) and the regulation of the Generalitat's radio and television broadcasting services. Named as Law 10/1983 of 30th May of the Creation of the Catalan Broadcasting Corporation Public Body (Corporació Catalana de Ràdio i Televisió, CCRTV), it was one of the first laws unanimously passed by the Catalan Chamber. It was in force till 2007, it fulfilled its main objective, namely that of contributing in a decisive manner towards the linguistic and cultural normalisation of Catalan radio and television, as well as that of playing an essential role in the impulse and development of the Catalan audiovisual industry. With the application of the Law 11/2007 the Catalan Broadcasting Corporation (then Corporació Catalana de Ràdio i Televisió) was renamed as Corporació Catalana de Mitjans Audiovisuals given the extension of its functions in agreement with the technological changes produced, and also so as to cater for those changes that could take place in the future. The Law 2/2012, of 22 February, that modifies a number of laws on audiovisual issues, was published in the Generalitat's Official Gazette (Diari Oficial de la Generalitat, DOGC) on 27 February.

Country	Audiovisual deposit	Rights situation
<b>Sweden</b>	The first law on legal deposit was passed in 1661, and since then the National Library of Sweden (Kungliga biblioteket, KB) has collected written material published in the country. Since 1979 the legal deposit law has also covered radio and television broadcasts when the state commissioned the Archive of Sound and Image (ALB) to collect recorded sound and moving images. Since January 2009 this archive is a part of the National Library.	By including the radio and TV broadcasts into the Swedish Law of Legal Deposit Copies, Sweden became probably the first country to officially highlight the importance of audiovisual media as source material for research. Act on Copyright in Literary and Artistic Works (1960:729)
<b>United Kingdom</b>	The BUFVC is an observer member of the Film Archives UK (formerly the Film Archive Forum), which represents all public sector film and television archives which care for the UK's moving image and sound heritage and acts as an advisory body on national moving image archive policy. The Researcher's Guide Online to Screen Heritage (RGO) is a directory of film and video libraries and archives and related documentation and artefact collections and is a comprehensive directory of the publicly accessible sources of material related to the history of moving images and sound in the United Kingdom.	2014 No. XXXX The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014. This Act brought changes to the copyright exceptions for libraries, archives and museums coming into law in June 2014. The changes are being made to bring copyright law up to date and make it more readily applicable to the digital age. There are two significant changes for libraries, archives and museums: the first concerns the making of copies for archiving and preservation, the second allows greater freedom to copy works for those carrying out non-commercial research and private study.

**Non-EU Member States Represented in EUscreenXL**

Country	Audiovisual deposit	Rights situation
<b>Norway</b>	Norwegian Broadcasting Corporation The National Library of Norway (Nasjonalbiblioteket)	
<b>Switzerland</b>	As a national organization, MemoriAV is mandated with preserving and developing Switzerland's audiovisual heritage – photographs, recordings, films and videos as well as context-relevant information. MemoriAV has the legal status of an association and works in a proactive, sustainable manner to preserve, valorize and ensure broad use of Switzerland's audiovisual cultural heritage. The association organizes a network of all institutions and persons involved and interested in this task.	Switzerland copyright act is the Federal Law of October 9, 1992 on Copyright and Neighbouring Rights (status as of July 1, 2008)  F Federal Law on Radio and Television (of 24 March 2006 (as of 1 February 2010) Federal Law on the allocation of grants to the club MemoriAV (2006-2011)