

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

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Introduction

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(Images for the Future)

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Representing:

Association des Cinémathèques Européennes
(ACE)

The logo for the Association des Cinémathèques Européennes (ACE) features the text 'ASSOCIATION DE S', 'CINÉMATHÈQUES', and 'EUROPÉENNES' stacked vertically in a bold, white, sans-serif font. The text is contained within a black rectangular box with vertical bars on the left and right sides.

ASSOCIATION DE S
CINÉMATHÈQUES
EUROPÉENNES

Introduction

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

Digitization project “Images for the Future”

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

Digitization project “Images for the Future”

Clearing Team (since February 2008):

- Legal Counsel
- Historian
- Volunteer

Digitization project “Images for the Future”

Clearing Results (since February 2008)

- Total of films cleared: 3033 titles
 - Public Domain 546 titles
 - Orphan Works 1459 titles
 - Contracting Party EYE 418 titles
 - License Agreements 610 titles

Film Clearing at EYE

Research & data storage:

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

Getting Permission:

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

VoD Platform Filmotech

- Public-private partnership:
 - Film & TV Archives
 - Producers Association
 - Unions, Guilds
 - Film Fund
 - Film Festival
 - Ministry of Culture
 - Collecting Societies
- Streaming Video-on-demand platform
- Entire Dutch Film Collection
- Launch: next month

VoD Platform Filmotech

Repartition:

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

VoD platform Filmotech

Voluntary ECL Model:

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

VoD Platform Filmotech

Voluntary ECL model:

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

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

VoD Platform Filmotech

ECL Filmotech / Rights Management Societies

Contract information:

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

Negotiating with Rights Management Societies (Filmotech)

Voluntary ECL Model, pitfalls:

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

Negotiating with Rights Management Organizations (Photographs)

- Pictoright representing visual artists
- Our goal: one lump sum for entire collection unlimited in time
- Their offer: - small part of our collection
 - limited in time
 - substantial costs

Recommendations:

Implementation of European legislation allowing for:

- Mandatory exceptions for publicly funded institutions:
 - Digitization and online use of Orphan works (educational / research purposes)
 - Digitization for preservation purposes and online access on the premises for copyrighted material
- ECL model for all use by cultural institutions not covered by these mandatory exceptions
 - Non-commercial use: no fee
 - Commercial use: limited fee